

Case C-401/09 P

Evropaïki Dynamiki – Proigmaena Systemata Tilepikoinonion Pliroforikis kai Tilematikis AE

v

European Central Bank (ECB)

(Appeal — Admissibility — Power of attorney — Consortium — Public contracts — Negotiated procedure — IT consultancy and IT development services — Rejection of the tender — Rules of Procedure of the General Court — Interest in bringing proceedings — Ground for exclusion — Permit required by national law — Obligation to state reasons)

Opinion of Advocate General Mengozzi delivered on 27 January 2011 I - 4914
Judgment of the Court (Third Chamber), 9 June 2011 I - 4936

Summary of the Judgment

1. *Procedure — Plea of inadmissibility — Obligation to submit a plea by separate document — Limits*
(*Rules of Procedure of the General Court, Art. 114*)
2. *Appeals — Interest in bringing proceedings — Condition — Appeal capable of securing an advantage to the party bringing it — Scope*

3. *Appeals — Grounds — Mere repetition of the pleas and arguments put forward before the General Court — Error of law relied on not identified — Inadmissibility*
(Art. 256 TFEU; Statute of the Court of Justice, Art. 58, first para.; Rules of Procedure of the Court of Justice, Art. 112(1), first para., (c))

1. Article 114 of the Rules of Procedure of the General Court in no way requires every plea of inadmissibility to be submitted by separate document. On the contrary, the submission of such a plea by separate document is necessary only if the party submitting it intends to ask the General Court for a decision on the admissibility of the action without going to the substance of the case.

reconfirmed. In addition, a plea for annulment is inadmissible on the ground of lack of interest in bringing proceedings when, even if that plea were well founded, annulment of the contested act on the basis of that plea would not give the applicant satisfaction. Thus, the General Court, after rejecting a first plea in law, may find that it is no longer necessary to adjudicate on the other pleas raised by the applicant, if they would not have enabled it to succeed in its action.

Thus, a plea of inadmissibility may be raised in a defence and examined by the General Court when it adjudicates on the action.

(see paras 49-50)

(see paras 43-45)

2. An applicant cannot have a legitimate interest in annulment of a decision when it is already certain that that decision which concerns it cannot be other than
3. An appeal must indicate precisely the contested elements of the General Court's decision which the appellant seeks to have set aside and also the legal arguments specifically advanced in support of the appeal. That requirement is not satisfied by a ground of appeal which, without even including an argument specifically identifying the error allegedly vitiating

the decision under appeal, merely reproduces arguments previously submitted before the General Court. Such a ground of appeal amounts in reality to no more than a request for re-examination of a plea submitted before the General Court, which the Court of Justice does not have jurisdiction to undertake. In addition, a mere abstract statement of a plea in an appeal, unsupported by more specific information, does not fulfil the duty to state the reasons for an appeal. That is the case

when a ground of appeal simply refers to a number of provisions of European Union law, without showing that they are applicable in the present case and without setting out in what respect those provisions have been infringed.

(see paras 55, 61)