

GENERAL COURT

Judgment of the General Court of 12 December 2012 — Evropaiki Dynamiki v EFSA

(Case T-457/07) ⁽¹⁾

(Public procurement — Tender procedure — Provision of IT consultancy assistance services — Rejection of a tender and decision to award the contract to another tenderer — Admissibility — Obligation to state reasons — Selection criteria — Award criteria — Compliance with award criteria laid down in the tender specifications — Manifest error of assessment)

(2013/C 32/20)

Language of the case: English

Parties

Applicant: Evropaiki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (represented by N. Korogiannakis, lawyer)

Defendant: European Food Safety Authority (EFSA) (represented initially by A. Cuvillier, subsequently by S. Gabbi and D. Detken, and finally by D. Detken, acting as Agents, assisted by J. Stuyck and A.-M. Vandromme, lawyers)

Re:

Application for annulment of the decision of EFSA of 1 October 2007 rejecting the tender submitted by the applicant in response to Call for Tenders EFSA/IT/2007/14 for IT Consultancy Assistance (OJ 2007/S 97-118626) and awarding the contract to another tenderer.

Operative part of the judgment

The Court:

1. Annuls the decision of the European Food Safety Authority (EFSA) rejecting the tender submitted by Evropaiki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE in response to Call for Tenders EFSA/IT/2007/14 for IT Consultancy Assistance and awarding the contract to another tenderer;
2. Orders EFSA to pay the costs.

⁽¹⁾ OJ C 51, 23.2.2008.

Judgment of the General Court of (Third Chamber) of 12 December 2012 — Electrabel v Commission

(Case T-332/09) ⁽¹⁾

(Competition — Concentrations — Decision imposing a fine for having put a concentration into effect — Obligation not to put the concentration into effect — Obligation to state the reasons on which the decision is based — Error of assessment — Limitation period — Amount of the fine)

(2013/C 32/21)

Language of the case: French

Parties

Applicant: Electrabel (Brussels, Belgium) (represented by: M. Pittie and P. Honoré, lawyers)

Defendant: European Commission (represented by: A. Bouquet and V. Di Bucci, acting as Agents)

Re:

Annulment of Commission Decision C(2009) 4416 final of 10 June 2009, imposing a fine for having implemented a concentration contrary to Article 7(1) of Council Regulation (EEC) No 4064/89 (COMP/M.4994 Electrabel — Compagnie Nationale du Rhône) and, in the alternative, the annulment of or the reduction of the amount of the fine imposed on the applicant by that decision.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Electrabel to pay the costs.

⁽¹⁾ OJ C 267, 7.11.2009.

Judgment of the General Court (Third Chamber) of 12 December 2012 — Novácke chemické závody v Commission

(Case T-352/09) ⁽¹⁾

(Competition — Agreements, decisions and concerted practices — Market for calcium carbide and magnesium for the steel and gas industries in the EEA, with the exception of Ireland, Spain, Portugal and the United Kingdom — Decision finding an infringement of Article 81 EC — Price-fixing and market-sharing — Fines — Obligation to state reasons — Proportionality — Equal treatment — 2006 Guidelines on the method of setting fines — Ability to pay)

(2013/C 32/22)

Language of the case: English

Parties

Applicant: Novácke chemické závody a.s. (Nováky, Slovakia) (represented initially by: A. Černejová, and subsequently by M. Boľoš and L. Bányaiová, lawyers)

Defendant: European Commission (represented by: F. Castillo de la Torre, N. von Lingen and A. Tokár, acting as Agents)

Intervener in support of the applicant: Slovak Republic (represented by: B. Ricziová, acting as Agent)

Re:

Application for annulment of Commission Decision C(2009) 5791 final of 22 July 2009 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/39.396 — Calcium carbide and magnesium based reagents for the steel and gas industries), in so far as it concerns the applicant, and, in the alternative, cancellation or a reduction of the fine imposed on the applicant by that decision.

Operative part of the judgment

The Court:

1. *Dismisses the action;*
2. *Orders Novácke chemické závody a.s. to bear its own costs and to pay those incurred by the European Commission;*
3. *Orders the Slovak Republic to bear its own costs.*

(¹) OJ C 267, 7.11.2009.

Judgment of the General Court (Third Chamber) of 12 December 2012 — 1. garantovaná v Commission

(Case T-392/09) (¹)

(Competition — Agreements, decisions and concerted practices — Market for calcium carbide and magnesium for the steel and gas industries in the EEA, with the exception of Ireland, Spain, Portugal and the United Kingdom — Decision finding an infringement of Article 81 EC — Price-fixing and market-sharing — Imputability of the unlawful conduct — Fines — Ceiling of 10 % of turnover — Relevant turnover — Rights of the defence — Obligation to state reasons — Proportionality — 2006 Guidelines on the method of setting fines — Ability to pay)

(2013/C 32/23)

Language of the case: English

Parties

Applicant: 1. garantovaná a.s. (Bratislava, Slovakia) (represented initially by: M. Powell, Solicitor, A. Sutton and G. Forwood, Barristers, and subsequently by M. Powell, G. Forwood, M. Staroň and P. Hodál, lawyers)

Defendant: European Commission (represented by: J. Bourke, N. von Lingen and A. Tokár, acting as Agents)

Re:

Application for annulment of Commission Decision C(2009) 5791 final of 22 July 2009 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement

(Case COMP/39.396 — Calcium carbide and magnesium based reagents for the steel and gas industries), in so far as it concerns the applicant, and, in the alternative, a reduction of the fine imposed on the applicant by that decision.

Operative part of the judgment

The Court:

1. *Dismisses the action;*
2. *Orders 1. garantovaná a.s. to pay the costs.*

(¹) OJ C 297, 5.12.2009.

Judgment of the General Court of 12 December 2012 — Ecka Granulate and non ferrum Metallpulver v European Commission

(Case T-400/09) (¹)

(Competition — Cartels — Market in calcium carbide and magnesium for the steel and gas industries in the EEA, with the exception of Ireland, Spain, Portugal and the United Kingdom — Decision finding an infringement of Article 81 EC — Price fixing and market sharing — Fines — Principle of the legality of criminal offences and penalties — 2006 guidelines for the calculation of the amount of fines — Mitigating circumstances — Cooperation during the administrative procedure — Proportionality — Ability to pay)

(2013/C 32/24)

Language of the case: German

Parties

Applicants: Ecka Granulate GmbH & Co. KG (Fürth, Germany); non ferrum Metallpulver GmbH & Co. KG (St. Georgen bei Salzburg, Austria) (represented initially by: H. Janssen and M. Franz, and subsequently by: H. Janssen and P. Homann, lawyers)

Defendant: European Commission (represented by: A. Antoniadis, K. Mojzesowicz and N. von Lingen, acting as Agents)

Intervener in support of the defendant: Council of the European Union (represented by: M. Simm and G. Kimberley, acting as Agents)

Re:

Action for annulment of Commission Decision C(2009) 5791 final of 22 July 2009 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/39.396 — Calcium carbide and magnesium based reagents for the steel and gas industries), in so far as it concerns the applicants and, in the alternative, reduction of the fine imposed on the applicants in that decision

Operative part of the judgment

The Court:

1. *Dismisses the action;*