

Appeal brought on 26 November 2010 by Evropaiki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE against the judgment of the General Court (Fifth Chamber) delivered on 9 September 2010 in Case T-300/07: Evropaiki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE v European Commission

(Case C-560/10 P)

(2011/C 72/04)

Language of the case: English

Parties

Appellant: Evropaiki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (represented by: N. Korogiannakis, M. Dermitzakis, Attorneys at Law)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

- set aside the decision of the General Court;
- annul the decision of the Commission (DG ENTR) to reject the bid of the Appellant in Lot 1, filed in response to the Call for Tender ENTR/05/078 — YOUR EUROPE Lot 1 (Editorial Work and Translations) for ‘Your Europe Portal Management and Maintenance’ (OJ 2006/S 143-153057) and to award the same Call for Tender to another bidder;
- refer the case to the General Court in order that the latter examines the remaining issues in both Lots, including the request for Damages, not examined yet by the General Court;
- order the Commission to pay the Appellant’s legal and other costs including those incurred in connection with the initial procedure, even if the current Appeal is rejected as well as those of the current Appeal, in case it is accepted.

Pleas in law and main arguments

The Appellant submits that in the contested Judgment the General Court erred in law and wrongly interpreted article 100 (2) of the Financial Regulation ⁽¹⁾ and Article 149 of the Implementing Rules by accepting that, since the Appellant’s tender did not reach the 70 % threshold, the Commission rightfully did not communicate to the Appellant the relative merits of the winning tenderer. Furthermore the Appellant maintains that the Judgment is insufficiently motivated since the General Court failed to examine thoroughly and individually the plea concerning the infringement of the principle of transparency and equal treatment.

⁽¹⁾ Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities
OJ L 248, p. 1

Appeal brought on 26 November 2010 by Evropaiki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE against the judgment of the General Court (Fifth Chamber) delivered on 9 September 2010 in Case T-387/08: Evropaiki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE v European Commission

(Case C-561/10 P)

(2011/C 72/05)

Language of the case: English

Parties

Appellant: Evropaiki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (represented by: N. Korogiannakis, M. Dermitzakis, Attorneys at Law)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

- set aside the decision of the General Court;
- annul OPOCE’s (Publications Office of the European Union) decision to reject the bid of the Appellant, and to award the same Call for Tender to another bidder and to award damages;
- refer the case to the General Court in order that the latter examines the remaining issues in both Lots, including the request for Damages, not examined yet by the General Court;
- order the OPOCE to pay the Appellant’s legal and other costs including those incurred in connection with the initial procedure, even if the current Appeal is rejected as well as those of the current Appeal, in case it is accepted.

Pleas in law and main arguments

The Appellant submits that in the contested Judgment the General Court erred in law and wrongly interpreted Article 100 (2) of the Financial Regulation ⁽¹⁾ and Article 149 of the Implementing Rules by accepting that, since the Appellant’s tender did not reach the 70 % threshold, the Commission rightfully did not communicate to the Appellant the relative merits of the winning tenderer. Furthermore, the Appellant submits that the Judgment is insufficiently motivated since the General Court failed to examine thoroughly and individually the plea concerning the infringement of the principle of transparency and equal treatment.

The Appellant also submits that the General Court breached the obligation to state reasons, since, although it acknowledged that in numerous sub-criteria the comments in the contested decision were vague and generic and do not explain the marks awarded to the applicant's tender, and that the contested decision is vitiated by an inadequate statement of reasons with regard to specific award sub-criteria, it concluded that the 'statement of reasons in respect of numerous other award criteria and sub-criteria is adequate'. Further, the General Court erred in its interpretation of the obligation to state reasons, by considering that several of the comments of the Evaluation Committee fulfilled its obligation to state reasons, and it did not examine thoroughly and failed to motivate individually and sufficiently the arguments of the Appellant concerning the infringement of the principle of transparency and equal treatment.

(¹) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities
OJ L 248, p. 1

Reference for a preliminary ruling from the Bundesverwaltungsgericht (Germany) lodged on 2 December 2010 — Bundesanstalt für Landwirtschaft und Ernährung v Pfeifer & Langen Kommanditgesellschaft

(Case C-564/10)

(2011/C 72/06)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Appellant: Bundesanstalt für Landwirtschaft und Ernährung

Respondent: Pfeifer & Langen Kommanditgesellschaft

Questions referred

1. Does Article 3 of the Regulation (¹) apply also to the limitation period for claims in respect of interest due under national law in addition to the repayment of the advantage wrongly obtained on the basis of an irregularity?
2. If the answer to question 1 is in the affirmative: Is the length of the limitation period alone to be taken into account in the comparison of limitation periods provided for in Article 3(3) of the Regulation, or is it also necessary to take into account national legislation that postpones commencement of the limitation period to the end of the calendar year in which a claim arises (in this case, a claim in respect of interest), without any other circumstances being required?
3. Does the limitation period for claims in respect of interest begin to run when an irregularity is committed or when a

continuous or repeated irregularity ceases even if the claims in respect of interest relate to later periods and therefore do not arise until a later date? In the case of continuous or repeated irregularities, is commencement of the limitation period postponed under the second subparagraph of Article 3(1) of the Regulation until the day on which the irregularity ceases in the case of claims in respect of interest as well?

4. When does the interrupting effect of a decision by a competent authority come to an end under the second sentence of the third subparagraph of Article 3(1) of the Regulation where that decision essentially establishes the claim in question (in this case, a claim in respect of interest)?

(¹) Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ 1995 L 312, p. 1).

Reference for a preliminary ruling from the Tribunal Administratif de Saint-Denis de la Réunion (France) lodged on 8 December 2010 — Clément Amedée v Garde des sceaux, Ministre de la justice et des libertés, Ministre du budget, des comptes publics, de la fonction publique et de la réforme de l'État

(Case C-572/10)

(2011/C 72/07)

Language of the case: French

Referring court

Tribunal Administratif de Saint-Denis de la Réunion

Parties to the main proceedings

Applicant: Clément Amedée

Defendants: Garde des sceaux, Ministre de la justice et des libertés, Ministre du budget, des comptes publics, de la fonction publique et de la réforme de l'État

Questions referred

1. Can the scheme put in place by Article L. 12(b) of the French Civil and Military Retirement Pensions Code, as amended by Article 48 of the Law of 21 August 2003, and by Article R. 13 of that Code, as amended by Article 6 of the Decree of 26 December 2003, be regarded as giving rise to indirect discrimination, within the meaning of Article 157 of the Treaty on [the Functioning of the] European Union, against the biological parents of children, given the proportion of men liable to fulfil the condition relating to a break in their career for a continuous period of at least two months, in particular by reason of the absence of a statutory framework allowing them to fulfil that condition by taking paid leave?