

Pleas in law: Infringement of Article 7(1) (b) and (c) of Regulation (EC) No 207/2009,⁽¹⁾ on the ground that the mark was not descriptive in character and that the concept of the need for reservation was ignored; infringement of the duty to state reasons under Article 75 of Regulation (EC) No 207/2009.

⁽¹⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1)

Action brought on 26 June 2010 — Martin v Commission

(Case T-291/10)

(2010/C 234/90)

Language of the case: English

Parties

Applicants: Anne Martin (Brussels, Belgium), (represented by: U. O'Dwyer, Solicitor)

Defendant: European Commission

Form of order sought

— Annul the implied Decision of the Commission of 20 April 2010 to refuse confirmatory access to the applicant's 4 March 2010 request for access to documents;

— Order for the Commission to comply with Regulation (EC) No 1049/2001⁽¹⁾ of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents within the time-limits as deemed appropriate by the Court; and

— Order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

By means of the present application, the applicant seeks, pursuant to Article 263 TFUE, the annulment of the implied

Decision of the Commission of 20 April 2010, whereby the latter failed to respond to the applicant's confirmatory access to documents application to the Secretariat General of the Commission under Article 7(2) of Regulation 1049/2001 restating her original access to documents request of 22 December 2009 by the deadline of 20 April 2010.

In support of his appeal, the applicant submits the following pleas in law:

The failure of the Commission to take a decision by the time limit of 20 April 2010 imposed on it by Regulation 1049/2001 constitutes an implied refusal of the confirmatory access to document request of 4 March 2010 of the Applicant and is in breach of Article 8(1) of the said regulation and Article 296 TFEU for failing to state adequate reasons for the refusal.

⁽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 July 2010 — Camara v Council

(Case T-295/10)

(2010/C 234/91)

Language of the case: French

Parties

Applicant: Kerfalla Person Camara (represented by: J.-C. Tchikaya, lawyer)

Defendant: Council of the European Union

Form of order sought

— Annul Council Regulation (EU) No 1284/2009 of 22 December 2009 imposing certain specific restrictive measures in respect of the Republic of Guinea, in so far as it concerns the applicant;

— Order the Council to pay the costs.

Defendant: European Joint Undertaking for ITER and the Development of Fusion Energy

Pleas in law and main arguments

The applicant seeks annulment of Council Regulation (EU) No 1284/2009 of 22 December 2009 imposing certain specific restrictive measures in respect of the Republic of Guinea ⁽¹⁾ in so far as the applicant is included on the list of natural or legal persons, entities or bodies whose funds and economic resources are frozen under Article 6 of that regulation.

In support of his action, the applicant raises three pleas in law alleging:

- a manifest error of assessment in including the applicant on the list of natural or legal persons entities or bodies whose funds and economic resources are frozen;
- an infringement of Article 215(3) TFEU since the contested regulation does not contain any legal guarantees, in particular procedural guarantees;
- an infringement of the Charter of Fundamental Rights of the European Union in so far as the contested regulation infringes, (i) the principle of non-discrimination by maintaining the applicant's name on the list of persons sanctioned because of social background, (ii) his rights of defence in that it does not provide for any procedure to inform the applicant of the evidence against him, (iii) the right to an effective judicial remedy in that the Council did not inform the applicant of his rights of appeal, and (iv) the applicant's right to property.

⁽¹⁾ OJ 2009 L 346, p. 26.

Action brought on 15 July 2010 — Babcock Noell v European Joint Undertaking for ITER and the Development of Fusion Energy

(Case T-299/10)

(2010/C 234/92)

Language of the case: English

Parties

Applicant: Babcock Noell GmbH (Würzburg, Germany) (represented by: M. Werner and C. Ebrecht, lawyers)

Form of order sought

- declare void the decisions of the defendant of 1 July 2010 in the procurement procedure F4E-2009-OPE-053 (MS-MG) to eliminate the applicant's tenders — four separate offers for LOTS A, B, C and D — from the procedure;
- declare void the decision of the defendant of 2 July 2010 in the procurement procedure F4E-2009-OPE-053 (MS-MG) to award the contract to the winning tenderer;
- order the defendant to cancel the tender procedure F4E-2009-OPE-053 (MS-MG) and to organise a fresh tender procedure for the supply of ITER Toroidal Field Coils Winding Packs;
- order the defendant to bear the costs.

Pleas in law and main arguments

In support of its claims, the applicant puts forward seven pleas in law.

First, it argues that the decisions eliminating the applicant's bids from the procedure for non-compliance with the tender specifications are in breach of the principle of equal treatment and contain a manifest error of assessment, given that the bids did not contain substantial modifications ('45 deviations') to the model contract, as alleged by the defendant, but in fact only a list containing several proposals of issues to be negotiated. Furthermore, the applicant contends that the defendant breached the principles of good administrative practice and transparency in taking these decisions.

Second, the applicant submits that the contested decisions are in breach of the general principle of equal treatment of all tenderers given that the defendant, in the course of the tender procedure, did not remedy the fact that the winning tenderer had a significant information advantage when formulating its tender, as a result of carrying out works for the defendant and other entities prior to the procedure. Furthermore, it claims that the contested decisions are in breach of the transparency