

Pleas in law and main arguments

In support of the action, the applicant relies on one plea in law.

1. First plea in law, alleging that the defendant violated Articles 2 and 30(3) of Directive 2004/18/EC, as:

- Information relevant for submitting the offer was not made available to all participants in the public procurement procedure in the same manner and quality;
- The successful tenderer was provided information in a discriminatory manner which gave it an advantage as it was able to correct its tender; and
- The negotiation procedure was conducted in such a way that the defendant influenced the outcome of the procedure by requesting additional information or clarifications from only certain participants, thereby violating the principle of non-discrimination and transparency.

⁽¹⁾ Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ 2004 L 134, p. 114)

Action brought on 26 July 2011 — Symfiliosi/FRA

(Case T-397/11)

(2011/C 282/70)

Language of the case: English

Parties

Applicant: Symfiliosi (Nicosia, Republic of Cyprus) (represented by: L. Christodoulou, lawyer)

Defendant: European Union Agency for Fundamental Rights (FRA)

Form of order sought

- Annul the decision of the European Union Agency for Fundamental Rights of 23 May 2011 to award the first framework contract under the tender procedure F/SE/10/03 — Lot 12 Cyprus to First Elements and the second framework contract to Symfiliosi;
- Order the European Union Agency for Fundamental Rights to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on one main plea in law, alleging that the Agency failed to provide reasons for its decision. It further contests the substance of the evaluation of tendering bids, alleging that the latter had been arbitrary, unreasonable and unlawful.

Action brought on 29 July 2011 — Banco Santander and Santusa v Commission

(Case T-399/11)

(2011/C 282/71)

Language of the case: Spanish

Parties

Applicants: Banco Santander, SA (Santander, Spain), Santusa Holding, SL (Boadilla del Monte, Spain) (represented by: J. Buendía Sierra, E. Abad Valdenebro, R. Calvo Salinero, and M. Muñoz de Juan, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

- admit and uphold the pleas for annulment contained in the application and consequently annul Article 1(1) of the contested decision, which classifies Article 12(5) of the Texto Refundido de la Ley del Impuesto sobre Sociedades (‘TRLIS’) (consolidated text of the Law on Corporation Tax) as State aid;
- alternatively, annul Article 1(1) of the contested decision in so far as it declares that Article 12(5) TRLIS contains elements of State aid when it applies to acquisitions of majority shareholdings;
- alternatively, annul Article 4 of the contested decision in so far as it makes the recovery order applicable to transactions completed prior to the publication in the Official Journal of the European Union of the final decision which is the subject-matter of this action (OJ 2011 L 135, p. 1);
- alternatively, annul Article 1(1), and in the further alternative Article 4, in so far as they relate to transactions in Mexico, the United States and Brazil;
- order the Commission to pay the costs of these proceedings.

Pleas in law and main arguments

This action is brought against Commission Decision C(2010) 9566 of 12 January 2011 on the tax amortisation of financial goodwill for foreign shareholding acquisitions.

In support of their action, the applicants rely on three pleas in law.