

- hold that the present action constitutes an event interrupting the limitation period for the claim for payment of the third instalment;
- order the Commission to pay the costs.

Pleas in law and main arguments

By the present action, the applicant seeks annulment of the Commission decision which is contained in debit note No 3241109207 of 9 September 2011 and relates to the applicant's participation in the 'WARD IN HAND' research project No 510743.

In support of the action, the applicant relies on the following pleas in law:

- misuse of power by the European Commission, in so far as it proceeded to a legally fictional equation of the non-delivery of time sheets with the non-delivery of items to be delivered, as conduct in breach of contract;
- absence of a statement of reasons in the contested debit note and infringement of the general principle of law that an unfavourable measure must incorporate a statement of reasons in order for the legality of the reasoning to be reviewed, since the contested debit note does not state any reasons;
- failure to take account of the evidence;
- error of law and failure to state reasons, because the defendant took no account of the applicant's actual submissions and rejected them in a wrongful manner and without stating reasons;
- infringement of the principle of the protection of legitimate expectations, because the defendant wrongfully failed to pay the applicant the final instalment of the programme and nullified all its research work, five years after the programme's closure.

Action brought on 14 October 2011 — European Dynamics Luxembourg v ECB

(Case T-553/11)

(2012/C 6/37)

Language of the case: English

Parties

Applicant: European Dynamics Luxembourg SA (Ettelbrück, Luxembourg) (represented by: N. Korogiannakis and M. Dermizakis, lawyers)

Defendant: European Central Bank

Form of order sought

- Annul the decision of the defendant to reject the joint application of the temporary grouping, led and represented by the applicant, filed in response to the call for applications to participate in the call for tender with reference number 14159/IS/2010 (OJ 2011/S 75-121894), in particular for the services covered by lot 1 of the said tender;
- Annul the decision of the defendant to reject the applicant's appeal submitted in accordance with the appeal procedure as defined in section IV.2.1 of the abovementioned call for applications and under the conditions set out in Article 33 of Decision ECB/2007/5⁽¹⁾;
- Annul all related decisions of the defendant;
- Order the defendant to pay damages to the applicant, pursuant to Articles 256, 268 and 340 TFEU, for loss of opportunity and damages to its reputation and credibility on account of the tender procedure in question for an amount of EUR 2 000 000,00;
- Order the defendant to pay the applicant's legal and other costs and expenses incurred in connection with this application.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging that the defendant infringed the obligation to state reasons and failed to disclose the relative merits of the successful candidates. In addition, the applicant alleged that the defendant used vague selection criteria, introduced new criteria during the evaluation and failed to comply with the provisions of Article 28(3) of the Decision ECB/2007/5. Finally, the applicant claims that the defendant infringed the rights of defence and the principle of transparency and good administration.
2. Second plea in law, alleging that the defendant committed manifest errors of assessment as it failed to comply with Article 25 of Decision ECB/2007/5 and with the tender specifications.
3. Third plea in law, alleging that the defendant infringed Article 20 of Decision ECB/2007/5 and the principle of sound administration.
4. Fourth plea in law, alleging that by dismissing its appeal as inadmissible, the defendant infringed Article 28(3) of the Decision ECB/2007/5.

⁽¹⁾ Decision of the European Central Bank of 3 July 2007 laying down the Rules on Procurement (OJ 2007 L 184, p. 34)