

Pleas in law and main arguments

In support of the action, the applicants rely on a sole plea alleging infringement of Article 94 of the Financial Regulation,⁽¹⁾ in so far as the tenderer's tender contained false declarations, so that that tenderer should have been excluded from the award of the contract.

⁽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 2002 L 248, p. 1).

Action brought on 19 January 2012 — IDT Biologika v Commission

(Case T-30/12)

(2012/C 89/46)

Language of the case: German

Parties

Applicant: IDT Biologika GmbH (Dessau-Roßlau, Germany) (represented by: R. Gross and T. Kroupa, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the decision of the Delegation of the European Union to the Republic of Serbia of 5 October 2011 rejecting the tender submitted in respect of Lot No 1 by IDT Biologika GmbH in response to the call for tenders, reference EuropeAid/130686/C/SUP/RS Re-launch LOT 1, for the supply of a rabies vaccine to the beneficiary Ministry of Agriculture, Forestry and Water Supply of the Republic of Serbia, and awarding the contract in question to a consortium of various companies led by 'Biovet a. s.';
- order the defendant to pay the costs.

Pleas in law and main arguments

In support of its action the applicant alleges infringement of Article 252(3) of Regulation (EC) No 2342/2002⁽¹⁾ as the applicant takes the view that the successful tender does not fulfil the technical requirements specified in the tender documents with regard to the requisite non-virulence to humans of the vaccine offered and with regard to the requisite authorisations and should not therefore have been taken into account.

Furthermore, the taking into account of the successful tender of the consortium led by 'Biovet a. s.' constitutes discrimination as

regards price comparison since the applicant's tender alone satisfies all the actual requirements made with regard to the technical specifications in respect of the award procedure at issue and is therefore the only tender in the procedure which is in order.

⁽¹⁾ Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ 2002 L 357, p. 1).

Action brought on 23 January 2012 — Pips v OHIM — s.Oliver Bernd Freier (ISABELLA OLIVER)

(Case T-38/12)

(2012/C 89/47)

Language in which the application was lodged: English

Parties

Applicant: Pips BV (Amsterdam, Netherlands) (represented by: J.A.K. van den Berg, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: s.Oliver Bernd Freier GmbH & Co. KG (Rottendorf, Germany)

Form of order sought

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 20 October 2011 in case R 2420/2010-1;
- Allow the Community trade mark application No 7024961 for the word mark 'ISABELLA OLIVER', for all the goods and services subject to the proceedings before the First Board of Appeal; and
- Order the defendant to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'ISABELLA OLIVER', for goods and services in classes 3, 4, 12, 14, 16, 18, 20, 21, 24 and 25 — Community trade mark application No 7024961

Proprietor of the mark or sign cited in the opposition proceedings: The other party to the proceedings before the Board of Appeal

Mark or sign cited in opposition: Community trade mark application No 6819908 of the word mark 'S.Oliver', for goods in classes 4, 16, 20, 21 and 24; Community trade mark registration No 4504569 of the figurative mark 's.Oliver', for goods and services in classes 3, 6, 9, 14, 18, 20, 25, 28 and 35; German trade mark registration No 30734710.9 of the word mark 'S.Oliver', for goods in classes 10, 12 and 21; Community trade mark registration No 181875 of the word mark 'S.Oliver', for goods in classes 3, 6, 9, 14, 18, 20, 25 and 26; International trade mark registration No 959255 of the word mark 'S.Oliver', for goods in classes 10, 12 and 21

Decision of the Opposition Division: Partially rejected the CTM application

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 76 of Council Regulation No 207/2009, as the Board of Appeal; (i) made an assessment of the similarity of the marks on the basis of facts/circumstances not provided by the parties, as a consequence of which the conclusion with regard to the similarity of signs is erroneous; and (ii) incorrectly applied the principles formulated by the ECJ in relation to overall assessment of likelihood of confusion.

Action brought on 12 February 2012 — CF Sharp Shipping Agencies Pte v Council

(Case T-53/12)

(2012/C 89/48)

Language of the case: English

Parties

Applicant: CF Sharp Shipping Agencies Pte Ltd (Singapore, Singapore) (represented by: S. Drury, Solicitor, K. Adamantopoulos and J. Cornelis, lawyers)

Defendant: Council of the European Union

Form of order sought

— Annul Council Implementing Regulation (EU) No 1245/2011⁽¹⁾ and Council Regulation (EU) No 961/2010⁽²⁾ *ab initio* and with immediate effect insofar as it concerns applicant's inclusion in Annex VIII to Council Regulation (EU) No 961/2010; and

— Order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that by stating that the applicant is an Islamic Republic of Iran Shipping Lines front company, owned or controlled by the latter, the defendant has manifestly misstated the facts and committed a manifest error in the application of Article 16 (2) (d) of Council Regulation (EU) No 961/2010 by including the applicant in Annex VIII to the said Regulation.
2. Second plea in law, alleging that the defendant has infringed its obligations to give reasons contained in Article 296 TFEU and Article 36 (3) of Council Regulation (EU) No 961/2010.
3. Third plea in law, alleging the defendant's failure to state reasons has resulted in the infringement of the applicant's rights of defence, in particular the right to be heard and the right to an effective judicial review.

⁽¹⁾ Council Implementing Regulation (EU) No 1245/2011 of 1 December 2011 implementing Regulation (EU) No 961/2010 on restrictive measures against Iran (OJ 2011 L 319, p. 11)

⁽²⁾ Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007 (OJ 2010 L 281, p. 1)

Order of the General Court of 7 February 2012 — Prym and Others v Commission

(Case T-454/07)⁽¹⁾

(2012/C 89/49)

Language of the case: German

The President of the Third Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 51, 23.2.2008.

Order of the General Court of 9 February 2012 — Germany v Commission

(Case T-500/11)⁽¹⁾

(2012/C 89/50)

Language of the case: German

The President of the Fifth Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 355, 3.12.2011.