

must submit a request for access to documents outside the TGS and apply the remedies available to them, breaches the right to an effective remedy given the period in which the access to the documents could be obtained and as the analysis of the technical data will be difficult to carry out by the hundreds of agents concerned individually;

— that position further misconstrues the ‘effectiveness’ of the constitution of a TGS and the nature of the *lex specialis* of the statutory remedies established to contest correction coefficients affecting remuneration.

3. Third ground of appeal, alleging that the Civil Service Tribunal, when it examined the plea in law alleging a manifest error of assessment, erred in law:

— in holding that the disparity between the cost of living in Brussels and that in Varese, on the one hand, and the reduction of the correction coefficient of Varese as established by Regulation No 1239/2010, on the other, is not enough to support a conclusion that there was a manifest error of assessment and

— in requiring that the appellants submit data as relevant and precise as that which only the Commission possesses even though the case-law does not require the production of a body of evidence sufficiently probative as to reverse the burden of proof and the presumption of legality of the contested coefficient.

⁽¹⁾ Council Regulation (EU) No 1239/2010 adjusting with effect from 1 July 2010 the remuneration and pensions of officials and other servants of the European Union and the correction coefficients applied thereto (OJ 2010 L 338, p. 1).

Action brought on 11 June 2013 — Elmaghraby and El Gzaerly v Council

(Case T-319/13)

(2013/C 245/14)

Language of the case: English

Parties

Applicants: Ahmed Alaeldin Amin Abdelmaksoud Elmaghraby (Cairo, Egypt) and Naglaa Abdallah El Gzaerly (London, United Kingdom) (represented by: D. Pannick, QC, M. Lester, Barrister, and M. O’Kane, Solicitor)

Defendants: Council of the European Union

Form of order sought

The applicants claim that the Court should:

— Annul, as far as it concerns the applicants, Council Decision 2013/144/CFSP of 21 March 2013 amending Decision

2011/172/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt (OJ 2013 L 82, p. 54);

— Erase the allegations that each applicant is responsible for the misappropriation of State funds and subject to judicial investigation in Egypt; and

— Order the defendant to bear the applicants’ costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Council has failed to give adequate or sufficient reasons for including either of the applicants in the 2013 Measures.

2. Second plea in law, alleging that the Council manifestly erred in considering that the listing criterion was fulfilled as regards either of the applicants, as far as there is no legal or factual basis for their designation.

3. Third plea in law, alleging that the Council violated its data protection obligations according to the Data Protection Regulation (EC) No 45/2001 ⁽¹⁾ and to the Data Protection Directive 95/46/EC ⁽²⁾.

4. Fourth plea in law, alleging that the Council has failed to safeguard the applicants’ rights to defence and to effective judicial review.

5. Fifth plea in law, alleging that the Council has infringed, without justification or proportion, the applicants’ fundamental rights, including their right to protection of their property, business, and reputation.

⁽¹⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

⁽²⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

Action brought on 19 June 2013 — BT Limited Belgian Branch v Commission

(Case T-335/13)

(2013/C 245/15)

Language of the case: English

Parties

Applicant: BT Limited Belgian Branch (Diegem, Belgium) (represented by: T. Leeson, Solicitor, and C. Stockford, Barrister)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- Annul the decision notified to the applicant on 19 April 2013, rejecting the applicant's tender in the framework of the restricted procedure DIGIT/R2/PR/2011/039 and awarding the contract to another tenderer;
- Order the defendant to pay the costs;
- Alternatively, appoint an independent expert with the mission of assessing the compliance of the offer of another tenderer with the tendering specifications and defer its decision until the appointed expert has submitted his/her report, subsequently, annul the decision of the Directorate-General for Informatics ('DOGIT') and order the Commission to pay the costs;
- In the event DIGIT signs the Trans European Services for Telematics between Administrations — new generation ('TESTA-ng') contract, order the Commission to compensate the applicant for the damage it has suffered as a result of DIGIT's unlawful decision.

Pleas in law and main arguments

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

1. First plea in law, alleging that that DIGIT infringed the principle of transparency and the obligation to state reasons set out in Article 113 of the Financial Regulation⁽¹⁾ and Article 296 TFEU. This is because — as a result of the excessive redaction of the contracting authority's evaluation report of another tenderer — BT has not been given the opportunity to verify whether the contracting authority has performed a fair evaluation of the successful tenderer's offer.

The applicant alleges further that DIGIT has, first, not stated sufficient reasons for having redacted massive parts of the evaluation report of the offer of another tender, and second, even where DIGIT has provided reasons, those reasons are inadmissible.

2. Second plea in law, alleging that that DIGIT's scoring methodology for the evaluation of tenders breaches the general principles — including the principles of transparency and fair and equal treatment — applicable to public tendering procedures. In particular, since (i) DIGIT's scoring grid was not disclosed in advance of the tender and (ii) its unusual structure gave another tenderer an unlawful advantage.
3. Third plea in law, alleging that that DIGIT's comments in the evaluation report and the corresponding scores awarded to the offer of another tenderer are inconsistent. These contradictions vitiate the decision, since they render the statement of reasons supporting the decision null and void.
4. Fourth plea in law, alleging that DIGIT has accepted the offer of another tenderer notwithstanding that the abnormally low price proposal should have led to its elimination from the tendering procedure. In this regard, the

applicant submits that this claim cannot be undermined by DIGIT's claim that it scrutinized that offer in light of the rules on abnormally low offers. A generic reference to applicable legislation is not a substitute for a proper statement of reasons as to why — in light of its analysis — DIGIT nonetheless decided not to eliminate that offer from the tender procedure.

As a subsidiary part of this plea in law, the applicant alleges that the price proposed by another tenderer in its offer is unrealistic and cannot correspond to an offer that complies with the tender requirements. In this regard, BT requests the General Court to appoint an independent expert to determine whether the offer in question in fact complies with certain tendering specifications.

5. Fifth plea in law, alleging that that decision is vitiated by the fact that the contract value calculated in that document is not accompanied by a sufficient statement of reasons.
6. Sixth plea in law, alleging that DIGIT lacks competence to adopt the contested decision on the grounds that it lacks the required delegated power.

⁽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 25 June 2013 — Federación Española de Hostelería v EACEA

(Case T-340/13)

(2013/C 245/16)

Language of the case: Spanish

Parties

Applicant: Federación Española de Hostelería (Madrid, Spain) (represented by: F. del Nogal Méndez and R. Fernández Flores, lawyers)

Defendant: Education, Audiovisual and Culture Executive Agency

Form of order sought

The applicant claims that the General Court should:

- Annul decision 2007-19641 134736-LLP-I-2007-1-ES-Leonardo-LMP;
- In the alternative, return the proceedings to the point of the date of dispatch of the misaddressed communications from the auditors, allowing the applicant to make appropriate representations;
- In the further alternative, reduce, in accordance with the principle of proportionality, the amount which the Commission seeks to recover;