



Reports of Cases

Judgment of the General Court (Second Chamber) of 28 June 2016 —

AF Steelcase v EUIPO

(Case T-652/14)

(Public service contracts — Tender procedure — Supply and installation of furniture and accessories at EUIPO's head offices — Rejection of a tenderer's tender — Action for annulment — Award decision — No direct concern — Inadmissibility — Obligation to state reasons — Principle of sound administration — Proportionality — System for excluding tenders — Non-contractual liability — Material damage — Non-material damage)

1. *Actions for annulment — Jurisdiction of the EU judicature — Claim seeking that directions be issued to an institution — Inadmissibility (Arts 263 TFEU, 264 TFEU and 266 TFEU) (see paras 36, 37)*
2. *Fundamental rights — Charter of Fundamental Rights of the European Union — Right to sound administration — Scope — Raised by a legal person — Lawfulness (Charter of Fundamental Rights of the European Union, Art. 41) (see paras 42, 57)*
3. *Acts of the institutions — Statement of reasons — Obligation — Scope — Decision, in the procedure for the award of a public service contract, not to accept a tender — Assessment having regard to the information at the applicant's disposal at the time the action was brought (Art. 296 TFEU; Charter of Fundamental Rights of the European Union, Art. 41(2)(c); European Parliament and Council Regulation No 966/2012, Art. 113(2); Commission Regulation No 1268/2012, Art. 161(2)) (see paras 43-46)*
4. *Actions for annulment — Grounds — Lack of or inadequate statement of reasons — Separate ground from the one concerning substantive legality (Arts 263 TFEU and 296 TFEU) (see para. 47)*
5. *European Union public contracts — Conclusion of a contract following a call for tenders — Obligation on an institution to exercise its option to make contact with a tenderer after the opening of tenders — Condition — Exercise in compliance with the principles of sound administration, equal treatment, proportionality and legal certainty — No possibility of amending the terms of the tender of the said tenderer (European Parliament and Council Regulation No 966/2012, Arts 96(2), and 102; Commission Regulation No 1268/2012, Arts 158(3), and 160(3)) (see paras 63-65)*

6. *European Union public contracts — Tender procedure — Award of contracts — Rejection of tenders not complying with the purpose of the contract — No breach of principle of proportionality (Commission Regulation No 1268/2012, Art. 158(3)) (see paras 75, 76, 78, 79)*
7. *Actions for annulment — Natural or legal persons — Measures of direct and individual concern to them — Examination by the EU judicature of its own motion (Art. 263, fourth para., TFEU) (see para. 86)*
8. *Actions for annulment — Natural or legal persons — Measures of direct and individual concern to them — Whether directly concerned — Criteria — Decision to reject a candidate's tender before the award phase of a contract — Action by the unsuccessful tenderer against the award decision — Not directly concerned — Inadmissibility (Art. 263, fourth para., TFEU) (see paras 89-92)*
9. *Non-contractual liability — Conditions — Unlawfulness — Damage — Causal link — One of those conditions not met — Claim for compensation dismissed in its entirety (Art. 340, second para., TFEU) (see para. 96)*

Re:

First, application under Article 263 TFEU for the annulment of EUIPO's decision of 8 July 2014 rejecting the tender submitted by the applicant in the context of a call for tenders concerning the supply and installation of furniture and accessories at EUIPO's head offices (OJ 2014/S 023-035020) and the decisions related to the decision rejecting the applicant's tender, including, if necessary, the award decision, and an application for the tender procedure to be resumed at the stage before the decision of 8 July 2014 and, secondly, application under Article 268 TFEU for compensation for the damage allegedly sustained by the applicant.

Operative part

The Court:

1. Dismisses the action;
2. Orders AF Steelcase SA to pay the costs.