

Operative part of the order

1. *The action is dismissed as inadmissible.*
2. *Mr Bashir Saleh Bashir Alsharghawi is ordered to pay the costs.*

⁽¹⁾ OJ C 303, 8.9.2014.

Order of the President of the General Court of 5 December 2014 — AF Steelcase v OHIM**(Case T-652/14 R)****(Interim measures — Public procurement — Supply and installation of furniture — Rejection of a submitted tender — Application for suspension of operation — No prima facie case)**

(2015/C 056/34)

Language of the case: Spanish

Parties

Applicant: AF Steelcase, SA (Madrid, Spain) (represented by: S. Rodríguez Bajón, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (represented by: N. Bambara and M. Paolacci, acting as Agents)

Re:

Application for interim measures seeking, essentially, suspension of the decision of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 8 July 2014 rejecting the tender submitted by the applicant in the context of the tender procedure concerning the supply and installation of furniture and accessories in OHIM's buildings.

Operative part of the order

1. *The application for interim measures is dismissed.*
2. *The costs are reserved.*

Action brought on 4 December 2014 — Philip Morris v Commission**(Case T-796/14)**

(2015/C 056/35)

Language of the case: English

Parties

Applicant: Philip Morris Ltd (Richmond, United Kingdom) (represented by: K. Nordlander and M. Abenhaim, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare the application for annulment admissible;

- annul the Decision Ares (2014) 3142109 of the European Commission, dated 24 September 2014, in so far as it refuses to grant the applicant full access to the requested documents, with the exception of the redacted personal data contained therein;
- order the Commission to pay the applicant's costs for these proceedings.

Pleas in law and main arguments

The applicant seeks the annulment of Decision Ares(2014)3142109 of 24 September 2014, whereby the Commission refused to grant the applicant full access to six internal documents drawn up in the context of the preparatory works leading to the adoption of Directive 2014/40/EU on the manufacture, presentation and sale of tobacco and related products ⁽¹⁾ (the 'Contested Decision').

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

1. First plea in law, alleging that the Commission breached its duty to state reasons by failing to explain — for each document — which relevant exception of the Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (the 'Transparency Regulation') it applied and on the basis of what factual circumstances and considerations. By relying on the same overall blanket arguments to support the different grounds of refusal (protection of court proceedings, legal advice and the decision-making process), the Commission failed to state the reasons why disclosure of the requested documents would 'specifically and actually' undermine each of these interests. More specifically, the Contested Decision does not explain whether the justification invoked for each relevant refusal is 'court proceedings' or 'legal advice'.
2. Second plea in law, alleging that the Commission breached Article 4(2) second indent of the Transparency Regulation by failing to show how disclosure in each case would 'specifically and actually' undermine the protection of 'legal advice' or 'court proceedings'. As regards the protection of 'legal advice', the Commission's abstract justifications have all been dismissed in case law and the Commission provides no concrete explanation showing why, in this case, full disclosure of the requested documents would specifically and actually undermine the protection of legal advice. As regards 'court proceedings', the Commission again fails to explain, concretely, why disclosure would 'specifically and actually' undermine the protection of 'court proceedings'.
3. Third plea in law, alleging that the Commission breached both subparagraphs of Article 4(3) of the Transparency Regulation by failing to explain how disclosure would specifically and actually undermine the protection of the 'decision-making process'. As regards the first subparagraph of Article 4(3) of the Transparency Regulation, the Commission failed to identify a 'decision-making process' that could still be viewed as 'ongoing' and to demonstrate how disclosure would specifically and actually undermine its decision-making process. As regards the second subparagraph of that provision, the Commission failed to show that the requested documents were 'opinions' within the meaning of that subparagraph and a fortiori that the risk that disclosure would specifically and actually undermine the decision-making process was serious within the stricter meaning of that subparagraph.

⁽¹⁾ Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC, OJ, 2014, L 127, p. 1.

Action brought on 9 December 2014 — Philip Morris v Commission

(Case T-800/14)

(2015/C 056/36)

Language of the case: English

Parties

Applicant: Philip Morris Ltd (Richmond, United Kingdom) (represented by: K. Nordlander and M. Abenhaim, lawyers)

Defendant: European Commission