

- (3) The General Court erred in finding that the Council had not misused its powers. First, the General Court failed to carry out a specific check on the appellant. Second, the General Court erred in law in taking the view that the lack of specific evidence was irrelevant.
- (4) The General Court erred in finding that the Council had not infringed the right to good administration. First, the findings of the General Court on the Council's obligation to maintain impartiality are vitiated by errors of law. Second, the General Court failed to have regard for the scope of the obligation to make a careful determination of the facts. In this context, an infringement of the appellant's procedural rights is also evident.

The General Court erred in finding that the Council had not committed a 'manifest error of assessment'. First, the General Court failed to meet its obligation to carry out a review in relation to the contested legal acts in that it did not review the procedure which had led to the adoption of the contested legal acts. The General Court erred in law in finding that the Council could rely solely on a letter from the Ukraine. The General Court thereby disregarded the obligation to make additional enquiries. Furthermore, the General Court failed to have regard for the scope of the most recent case-law of the Court of Justice on restrictive measures. In addition, the General Court reasoned to a large extent in a purely political manner and demonstrates a failure to appreciate the importance of fundamental rights in a third country.

<sup>(1)</sup> OJ 2015 L 62, p. 25.

<sup>(2)</sup> OJ 2015 L 62, p. 1.

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**Appeal brought on 13 September 2017 by Talanton AE — Symvouleftiki-Ekpaideftiki Etaireia Dianomon, Parochis Ypiresion Marketing kai Dioikisis Epicheiriseon against the judgment delivered by the General Court (Seventh Chamber) on 13 July 2017 in Case T-65/15 Talanton AE v European Commission**

**(Case C-539/17 P)**

(2017/C 374/31)

*Language of the case: Greek*

### **Parties**

*Appellant:* Talanton AE — Symvouleftiki-Ekpaideftiki Etaireia Dianomon, Parochis Ypiresion Marketing kai Dioikisis Epicheiriseon (represented by: K. Damis, dikigoros)

*Other party to the proceedings:* European Commission

### **Form of order sought**

- set aside in its entirety the judgment of the General Court of the European Union of 13 July 2017 in Case T-65/15 *Talanton AE — Symvouleftiki-Ekpaideftiki Etaireia Dianomon, Parochis Ypiresion Marketing kai Dioikisis Epicheiriseon v European Commission*;
- uphold the company's action of 6 February 2015;
- dismiss the Commission's counterclaim;
- order the Commission to pay all the appellant's costs.

### **Pleas in law and main arguments**

- (1) Incorrect application of the principle of good faith in the performing of the agreement at issue — Infringement of the provisions concerning subcontracting under the financial regulation in force.
- The General Court assessed Article 1134 of the Belgian Civil Code incorrectly, as regards application of the principle of good faith in the performing of the agreement.
  - The General Court erred as to the interpretation of the provisions concerning subcontracting, as laid down in Article 130 et seq. of Regulation (EU) No 2342/2002 and in contractual clauses I.II.2.4 and II.13.1 of the Framework Contract signed under number FP7/2009/1.

- (2) Incorrect interpretation and application of a contractual clause and manifestly incorrect assessment of the evidence.
- The General Court erred as to the interpretation of clause II.22., Financial audits and controls, of Annex II to the agreement that was signed, mistakenly rejecting claims in that regard by the applicant/appellant.
- (3) Manifestly incorrect assessment of the evidence and defective reasoning.
- The General Court erred as it manifestly distorted key evidence that was relied on by the appellant and admitted by the respondent.

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**Action brought on 15 September 2017 — European Commission v Kingdom of Belgium**

**(Case C-543/17)**

(2017/C 374/32)

*Language of the case: French*

**Parties**

*Applicant:* European Commission (represented by: J. Hottiaux, L. Nicolae and G. von Rintelen, acting as Agents)

*Defendant:* Kingdom of Belgium

**Form of order sought**

- Declare that, by failing, by 1 January 2016 at the latest, to adopt all the laws, regulations and administrative provisions necessary to comply with Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks (OJ 2014 L 155, p. 1) or, in any event, by failing to communicate those provisions to the Commission, the Kingdom of Belgium has failed to fulfil its obligations under Article 13 of that directive;
- Order the Kingdom of Belgium to pay, in accordance with Article 260(3) TFEU, a fine in the sum of EUR 54 639,36 per diem from the date of delivery of the judgment in this action for failure to fulfil the obligation of communicating the measures transposing Directive 2014/61;
- Order the Kingdom of Belgium to pay the costs.

**Pleas in law and main arguments**

By virtue of Article 13 of Directive 2014/61, the Member States were required to adopt the national transposing measures by 1 January 2016 at the latest. The Commission is of the view that the Kingdom of Belgium failed to fulfil its obligations under that provision.

In its action, the Commission proposes that a daily fine of EUR 54 639,36 be imposed on the Kingdom of Belgium.

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**Order of the President of the Second Chamber of the Court of 14 July 2017 (request for a preliminary ruling from the Verwaltungsgerichtshof — Austria) — Umweltverband WWF Österreich v Landeshauptmann von Tirol**

**(Case C-663/15) <sup>(1)</sup>**

(2017/C 374/33)

*Language of the case: German*

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

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<sup>(1)</sup> OJ C 111, 29.3.2016.