

Defendant: European Parliament (represented by: P. López-Carceller and Z. Nagy, acting as Agents)

Re:

Application on the basis of Articles 278 and 279 TFEU, first, for a suspension of the operation of the decision of the Parliament of 1 December 2017 to reject the applicants' tender in the tender procedure 06D 20/2017/M005 entitled 'Assignments to perform inspections and provide technical opinions in the context of construction works, projects and purchases at the European Parliament in Brussels' and to award the contract to another tenderer, and secondly, for an injunction against the Parliament.

Operative part of the order

1. *There is no need to adjudicate on the application for a suspension of the operation of the decision of the Parliament of 1 December 2017 to reject the tender of Seco Belgium and Vinçotte in the tender procedure 06D 20/2017/M005 entitled 'Assignments to perform inspections and provide technical opinions in the context of construction works, projects and purchases at the European Parliament in Brussels' and to award the contract to another tenderer.*
2. *The application for interim measures is dismissed as to the remainder.*
3. *The order of 21 December 2017, Seco Belgium and Vinçotte v Parliament (T-812/17 R), is set aside.*
4. *The costs are reserved.*

Action brought on 12 January 2018 — Eesti Apteekide Ühendus v Commission

(Case T-10/18)

(2018/C 104/56)

Language of the case: English

Parties

Applicant: Eesti Apteekide Ühendus MTÜ (Laagri, Estonia) (represented by: K. Paas-Mohando, and I. Kangur, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul Commission decision SA.42028 (2017/NN) adopted on 23 October 2017; ⁽¹⁾
- order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Estonian Pharmacies Association has the legal standing to bring an action for annulment of Commission decision SA.42028 (2017/NN).
 - In compliance with the judgment of the Court of Justice in Case C-313/90, ⁽²⁾ Commission decisions not to raise objections adopted at the end of a preliminary procedure are subject to judicial review;

- The Estonian Pharmacies Association has the legal standing to bring an action for annulment of the Commission decision SA.42028 (2017/NN) to the General Court as an interested party pursuant to Article 108(2) TFEU and Article 1(h) of Regulation No 2015/1589.⁽³⁾
2. Second plea in law, alleging that the Commission was under the obligation to initiate a formal investigation procedure pursuant to Article 108(2) TFEU by virtue of the serious difficulties test. The Commission's serious difficulties in adopting the contested decision and thus the violation of the procedural safeguards provided by Article 108(2) TFEU are apparent from the following:
- The Commission has erred in law by finding that no advantage is given from State resources, because the Commission has failed to see that Finland has abused its regulatory discretion, which in turn has resulted in foregoing of State resources;
- The Commission has erred in law by finding no selective advantage, because the Commission has failed to adequately qualify the 'special tasks' as SGEI;
- The Commission has failed to collect material information in the preliminary procedure;
- The preliminary procedure was unreasonably long (close to 30 months);
- The Commission has resorted to an unprecedented legal definition 'special tasks';
- Finland amended its Universities Act during the preliminary proceedings pursuant to which Finland used to refund corporation tax and the pharmacy fee paid by Yliopiston Apteekki Oy to the University of Helsinki, which was the central regulation of one of the reported State aid measures.

⁽¹⁾ OJ 2017, C 422, p. 10.

⁽²⁾ Judgment of 24 March 1993, *Comité International de la Rayonne et des Fibres Synthétiques and others v Commission*, C-313/90, EU: C:1993:111.

⁽³⁾ Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (Text with EEA relevance) (OJ 2015 L 248, p. 9).

Action brought on 19 January 2018 — Delfant Hoylaerts v Commission

(Case T-17/18)

(2018/C 104/57)

Language of the case: French

Parties

Applicant: Isabelle Delfant Hoylaerts (Montredon-des-Corbières, France) (represented by: E. Conquet, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the Commission's Rejection Decision of 21 March 2017;
- annul the Commission's implicit Rejection Decision of 20 October 2017;
- order the Commission to bear the costs relating to the medico-educational institution from 20 October 2017;