



Reports of Cases

Order of the President of the General Court of 20 October 2022 – PB v Commission

(Case T-407/21 R)

(Interim relief – Public service contracts – Irregularities in the contract award procedure – Recovery of amounts unduly paid – Enforceable decision – Application for interim measures – Urgency – Prima facie case – Balance of interests)

1. *Interim relief – Suspension of operation of a measure – Interim measures – Conditions for granting – Prima facie case – Urgency – Serious and irreparable damage – Cumulative nature – Balancing of all the interests involved – Order of examination and method of verification – Discretion of the court hearing the application for interim relief*

(Arts 256(1), 278 and 279 TFEU; Rules of Procedure of the General Court, Art. 156(4))

(see paragraphs 24, 26, 27)

2. *Interim relief – Suspension of operation of a measure – Interim measures – Conditions for granting – Urgency – Serious and irreparable damage – Burden of proof*

(Arts 256(1), 278 and 279 TFEU; Rules of Procedure of the General Court, Art. 156(4))

(see paragraph 31)

3. *Interim relief – Suspension of operation of a measure – Conditions for granting – Urgency – Serious and irreparable damage – Purely pecuniary loss – Applicant's inability to meet basic needs*

(Arts 268, 278 and 340 TFEU; Rules of Procedure of the Court of Justice, Art. 160(3); Council Directive 89/665)

(see paragraphs 35, 36, 41)

4. *Interim relief – Suspension of operation of a measure – Conditions for granting – Prima facie case – Prima facie examination of the pleas in law put forward in support of the main action – Actions brought against enforceable decisions adopted by the Commission for the recovery of amounts unduly paid under public contracts – Plea alleging that the Commission did not have jurisdiction to adopt those decisions in the absence of an arbitration clause – Plea not prima facie lacking in foundation*

(Arts 261, 278 and 299 TFEU; European Parliament and Council Regulation 2018/1046, Art. 100(2))

(see paragraphs 44, 45, 50-57)

5. *Interim relief – Suspension of operation of a measure – Conditions for granting – Balancing of all the interests involved – Suspension of enforcement decisions adopted by the Commission for the recovery of amounts unduly paid under public contracts – Institution not objecting to the suspension – Interests of the applicant and its group in avoiding bankruptcy taking priority over the institution*

(Art. 278 TFEU)

(see paragraphs 58-63, 65, 66)

Operative part

1. Application of Commission Decision C(2021) 3338 final of 5 May 2021 concerning the recovery of the amount of EUR 5 038 737.86 plus interest payable by the director of the company [*confidential information redacted*] is suspended.
2. The costs are reserved.