

- annul the Commission's Implementing Decision (EU) 2022/1388 of 23 June 2022 on the unresolved objections regarding the terms and conditions of the authorisation of the biocidal product Pat'Appât Souricide Canadien Foudroyant referred by France and Sweden in accordance with Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ 2022, L 208, p. 7);
- order the Commission to pay the costs of these proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of rule of law relating to the application of Article 48 and infringement of Articles 1(1) and 32 of Regulation (EU) 528/2012, (the 'BPR').⁽¹⁾
2. Second plea in law, alleging infringement of Articles 33, 35 and 36 of the BPR.
3. Third plea in law, alleging infringement of rule of law relating to the application of the Treaties — principles of legal certainty and legitimate expectations.
4. Fourth plea in law, alleging infringement of Article 19 of the BPR and manifest error in assessment.
5. Fifth plea in law, alleging exceedance of power and infringement of rule of law relating to the application of the Treaties — principles of legal certainty, protection of legitimate expectations, proportionality and Article 16 of the Charter of fundamental rights of the EU.

⁽¹⁾ Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products, OJ 2012, L 167, p. 1.

Action brought on 28 November 2022 — UniSystems Luxembourg and Unisystems systimata pliroforikis v ESMA

(Case T-750/22)

(2023/C 45/27)

Language of the case: English

Parties

Applicants: UniSystems Luxembourg Sàrl (Bertrange, Luxembourg), Unisystems systimata pliroforikis monoprosopi anonymi emporiki etairia (Kallithea, Greece) (represented by: N. Korogiannakis, lawyer)

Defendant: European Securities and Markets Authority (ESMA)

Form of order sought

The applicants claim that the Court should:

- annul the decision of the ESMA to select the tender of the applicants as second in the cascade at the open call for tenders for ICT Consultancy — PROC/2021/12 'External Provision of IT Services', and to award the first cascade contract at the same call for tenders to the first cascade consortium, notified to the applicants by a letter of the ESMA dated 17 September 2022;

- in addition, order the ESMA to pay the applicants' damages suffered for the loss of contract in the amount of EUR 3 500 000 for the first two years of the execution of the contract. Should the contract be prolonged further, as specifically provided for, the applicants request the additional amount corresponding to the total duration of the contract, based on an annual amount of EUR 1 750 000, deduction made of any amount eventually corresponding to the gross margin of specific contracts that would be executed by the applicants in their quality as second cascade contractor, all the above amounts bearing interest;
- alternatively, should your Court find that the applicants are not entitled to the compensation of the full amount of damages incurred because of the illegal attacked decisions of the ESMA, the applicants request damages on account of the loss of opportunity in the amount of EUR 400 000, plus interest;
- order the ESMA to pay the applicants' legal fees and other costs and expenses incurred in connection with this application, even if the current application is rejected.

Pleas in law and main arguments

In support of the action, the applicants rely on two pleas in law.

1. First plea in law, alleging infringement of the Financial Regulation ⁽¹⁾ and of the tender specifications: The price offered by the first cascade contractor is abnormally low/specific since profiles are priced below the minimum legal salary in Germany and in Greece. For the same reasons, the applicants argue that there has been an infringement of the tender specifications, and of the principles of transparency and good administration.
2. Second plea in law, alleging infringement of the obligation to state reasons, of the right to an effective remedy and of an essential procedural requirement.
 - First part of the second plea of annulment: Infringement of the obligation to state reasons, insufficient motivation;
 - Second part of the second plea of annulment: Infringement of the principle of the right to an effective remedy and infringement of an essential procedural requirement.

⁽¹⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ 2018 L 193, p. 1).

Action brought on 7 December 2022 — Sboarina v Parliament

(Case T-761/22)

(2023/C 45/28)

Language of the case: Italian

Parties

Applicant: Gabriele Sboarina (Verona, Italy) (represented by: M. Paniz, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

- annul the measure entitled 'Amendment to the determination of the rights to a retirement pension of a former Member of the European Parliament under an Italian mandate' communicated by letter of 21 September 2022, received on 28 October 2022, sent by the Directorate-General for Finance of the European Parliament, with the subject line: 'Redefinition of the rights to a retirement pension following Decision No 150 of 3 March 2022 of the Ufficio di Presidenza della Camera dei deputati [(Office of the President of the Italian Chamber of Deputies, Italy)]', of which the applicant was notified, and, consequently, annul the redefinition and recalculation of the life annuity paid to the applicant by the European Parliament, and any other prior and/or consecutive act,