

Operative part

The Court:

1. Annuls Commission Decision 2055/555/EC of 15 July 2005, excluding from Community financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) in so far as it excludes from Community financing expenditure incurred by the Hellenic Republic in respect of extensification payments made for the years 2000 and 2001;
2. Dismisses the action as to the remainder;
3. Orders the Hellenic Republic to bear two thirds of its own costs and to pay two thirds of the costs of the European Commission;
4. Orders the Commission to bear one third of its own costs and to pay one third of the costs of the Hellenic Republic.

Judgment of the General Court (First Chamber) of 9 September 2011 — Evropaïki Dynamiki v Commission

(Case T-232/06)

(Public service contracts — Tendering procedure — Provision of services for specification, development, maintenance and support of customs IT services relating to IT projects — Rejection of a tender — Award of the contract to another tenderer — Action for damages — Disregard of the procedural requirements — Inadmissibility — Action for annulment — Time allowed for the receipt of tenders — Time allowed for the submission of requests for information — Equal treatment — Manifest error of assessment)

1. *Procedure — Application initiating proceedings — Formal requirements — Identification of the subject-matter of the dispute — Brief summary of the pleas in law on which the application is based — Action seeking compensation for damage caused by an EU institution — No indications as to the character and extent of the damage and the causal link — Inadmissibility (Rules of Procedure of the General Court, Art. 44(1)(c)) (see paras 30-32)*

2. *European Communities' public procurement — Tender procedure — Determination of the time allowed for the submission of requests for additional information — Time-limit for receipt of tenders not taken into account — Irregularity of the pre-litigation procedure — Effects — Annulment of the contested decision — Conditions — Burden of proof (see paras 61-68)*

3. *European Communities' public procurement — Tender procedure — Obligation to comply with the principle of equal treatment of tenderers — No necessity to neutralise absolutely all the advantages of the contracting tenderer in place (see paras 74-77)*

4. *European Communities' public procurement — Conclusion of a contract following a call for tenders — Discretion of the institutions — Judicial review — Limits (see paras 180, 195)*

Re:

APPLICATION for (i) annulment of the Commission's decision of 19 June 2006 not to select the tender submitted by the consortium formed by the applicant and other companies in connection with a call for tenders for specification, development, maintenance and support of customs IT services relating to IT projects 'CUST-DEV' and to award the contract to another tenderer and (ii) damages.

Operative part

- 1) Dismisses the action;
- 2) Orders Evropaïki Dynamiki – Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE to bear its own costs and to pay those incurred by the European Commission.

**Judgment of the General Court (First Chamber) of 9 September 2011 —
Kwang Yang Motor v OHIM — Honda Giken Kogyo (internal combustion
engine with vent on the top)**

(Case T-10/08)

(Community design — Invalidity proceedings — Registered Community design representing an internal combustion engine with the vent on the top — Earlier national design — Ground for invalidity — No individual character — Visible features of a component part of a complex product — No different overall impression — Informed user — Degree of freedom of the designer — Articles 4, 6 and 25(1)(b) of Regulation (EC) No 6/2002)

1. *Community designs — Grounds for invalidity — No individual character — Informed user — Concept (Council Regulation No 6/2002, Art. 6(1)) (see paras 23-27)*
2. *Community designs — Grounds for invalidity — No individual character — Design not giving the informed user a different overall impression from that produced by the earlier design — Representation of an internal combustion engine with the vent on the top (Council Regulation No 6/2002, Arts 4(2), 6(1) and 25(1)(b)) (see paras 30, 38, 43, 45)*