

Re:

Application on the basis of Articles 278 TFEU and 279 TFEU seeking the grant of interim measures ordering a waiver of the obligation to provide a bank guarantee as a condition of the prefinancing of the subsidy flowing from Parliament Decision FINS-2017-13 of 13 December 2016 on the financing granted to the applicant.

Operative part of the order

1. *The application for interim measures is rejected.*
2. *The costs are reserved.*

Action brought on 16 February 2017 — Eutelsat v GSA**(Case T-99/17)**

(2017/C 144/67)

*Language of the case: English***Parties**

Applicant: Eutelsat SA (Paris, France) (represented by: L. de la Brosse, lawyer)

Defendant: European Global Navigation Satellite Systems Agency

Form of order sought

The applicant claims that the Court should:

- declare that the application is admissible;
- grant the request for investigative measures put forward by the applicant;
- annul (i) the decision for the rejection of the applicant's 'Best and Final Offer' ('BAFO') taken by the GSA in relation to the contract notice No GSA/CD/14/14 — 'Galileo service operator', and notified on 29 November 2016, and (ii) the decision to award the contract to another tenderer to operate and maintain the Galileo system;
- order the defendant to bear the expenses.

Pleas in law and main arguments

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

1. First plea in law, alleging that the tenderer ranked first, modified its candidature during the course of the procedure, in violation of (i) the Tender Specifications and (ii) of the principle of equality of treatment of the tenderers.
2. Second plea in law, alleging that during the course of the procedure, GSA modified the contents of the financial criteria for the selection of the offers.
3. Third plea in law, alleging that the method used by GSA for ranking the price criteria did not enable the choice of the offer that was most economically advantageous.
4. Fourth plea in law, alleging that the composition of the evaluation committee was not in accordance with the rules and its impartiality cannot be guaranteed.
5. Fifth plea in law, alleging that the tenderer ranked first submitted an abnormally low tender.

6. Sixth plea in law, alleging a breach to the rules of transparency and equality of treatment of the candidates, and an advantage in contradiction to the rules concerning conflicts of interest.
7. Seventh plea in law, alleging that the GSA made a number of errors concerning the Qualitative Award Criteria.
8. Eighth plea in law, alleging that the GSA disregarded its obligation to give sufficient reasons for the contested decisions.
9. Ninth plea in law, alleging that the value of the contract is much lower than the total value stated in the contract award notice published by GSA and the BAFO of Eutelsat.

Action brought on 2 March 2017 — Hércules Club de Fútbol v Commission

(Case T-134/17)

(2017/C 144/68)

Language of the case: Spanish

Parties

Applicant: Hércules Club de Fútbol, SAD (Alicante, Spain) (represented by: S. Rating and Y. Martínez Mata, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul Decision C(2017) 736 final of the European Commission of 2 February 2017 in Case GESTDEM 2016/6034 to 2016/6044;
- order the Commission to pay the costs.

Pleas in law and main arguments

The present application has been brought against the decision confirming a decision refusing access to the documents sought by Hércules CF, in relation to certain documents in the administrative file that led to the adoption of Decision C (2016) 4060 final of 4 July 2016 on the State Aid SA.36387 (2013/C) (ex 2013/NN) (ex 2013/CP) implemented by Spain for Valencia Club de Fútbol Sociedad Anónima Deportiva, Hércules Club de Fútbol Sociedad Anónima Deportiva and Elche Club de Fútbol Sociedad Anónima Deportiva.

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

1. First plea in law, alleging that the Commission erred in concluding that access to the requested documents could be refused on the basis of the third and first indents of Article 4(2) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 4).
 - The applicant argues, in that respect, that the Commission automatically applied the general presumption of confidentiality of the administrative file in State aid proceedings established by the case-law; and that the Commission incorrectly applied, by analogy, the case-law concerning merger cases, in relation to the effects on the commercial interests of third parties.
2. Second plea in law, alleging that the Commission incorrectly applied Article 4(3) of Regulation No 1049/2001.