Judgment of the General Court (Seventh Chamber) of 22 September 2011 — Evropaïki Dynamiki v Commission

(Case T-86/09)

(Public service contracts — Tendering procedure — Provision of computer and related services, including the maintenance and development of the information systems of the Commission Directorate-General for Maritime Affairs and Fisheries — Rejection of a tender — Obligation to state reasons — Equal treatment — Transparency — Award criteria — Conflict of interests — Manifest error of assessment — Non-contractual liability)

1. *Acts of the institutions — Statement of reasons — Obligation — Scope — Decision, in a tendering procedure for a public service contract, not to accept a tender — Obligation to communicate, following a written request, the characteristics and relative advantages of the tender accepted and the name of the tenderer (Art. 253 EC; Council Regulation No 1605/2002, Art. 100(2); Commission Regulation No 2342/2002, Art. 149(3)) (see paras 26, 29-32)*

2. *European Communities' public procurement — Tender procedure — Obligation to comply with the principle of equal treatment tenderers — Need to ensure equality of opportunity and comply with the principle of transparency — Disparity in information communicated to tenderers, to the benefit of the established contractor — Information neither necessary nor useful for the formulation of tenders — No infringement of the equal treatment principle (see paras 60-63, 65-83)*

3. *European Communities' public procurement — Conclusion of a contract following a call for tenders — Power of the institutions in the conduct of the tendering procedure — Conflict of interest between a tenderer and a member of the tender evaluation committee — Concept (Council Regulation No 1605/2002, Art. 52(2)) (see paras 100-103)*

4. *European Communities' public procurement — Conclusion of a contract following a call for tenders — Discretion of the institutions — Judicial review — Limits (see para. 123)*

Re:

APPLICATION for annulment of the Commission's decision of 12 December 2008 rejecting the tender submitted by the applicant in response to Call for Tenders MARE/2008/01 for the provision of computer and related services, including the maintenance and development of the information systems of the Commission's Maritime Affairs and Fisheries Directorate-General (OJ 2008 S 115) and of the decision to award the contract to another tenderer, and an application for damages.

Operative part

The Court:

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 (Seventh Chamber) of 22 September 2011 — Cesea Group v OHIM — Mangini & C. (Mangiami)

(Case T-250/09)

(Community trade mark — Invalidity proceedings — Community figurative mark Mangiami — Earlier international word mark MANGINI — Admissibility of new evidence — Article 76(2) of Regulation (EC) No 207/2009)