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Press and Information

PRESS RELEASE No° 45/09

20 May 2009

Judgment of the Court of First Instance in Case T-89/07

VIP Car Solutions v European Parliament

THE COURT OF FIRST INSTANCE ANNULS THE PARLIAMENT'S DECISION NOT TO AWARD A CONTRACT FOR THE TRANSPORT OF MEPS TO VIP CAR SOLUTIONS

The Parliament has breached its obligation to state reasons and unlawfully refused to inform VIP Car Solutions of the price bid by the successful tenderer

The Financial Regulation of the European Communities provides that the contracting authority is to notify all candidates or tenderers whose applications or tenders are rejected of the grounds on which the decision was taken, and to notify all tenderers whose tenders are admissible and who make a request in writing of the characteristics and relative advantages of the successful tender and the name of the tenderer to whom the contract is awarded.

In September 2006 the Parliament made a call for tenders for the transport of its Members by chauffeured car and minibus during the part-sessions in Strasbourg. Under the terms of the call for tenders, the contract was to be awarded to the most economically advantageous tender, in accordance with five weighted criteria, including that of price, which accounted for 55% in the overall evaluation of the tenders.

VIP Car Solutions, a company which hires out chauffeured cars, submitted a tender to the Parliament in accordance with the terms of the call for tenders.

In January 2007 the Parliament awarded the contract to another tenderer and informed VIP Car Solutions of its decision not to accept its bid as it was not the most economically advantageous. VIP Car Solutions then asked the Parliament to inform it of the characteristics and relative advantages of the successful tender and the price bid by the company selected.

In its reply the Parliament confined itself to stating that, although the price bid by VIP Car Solutions was slightly lower than that of the company selected, the latter's tender received the highest marks for all the award criteria taken together.

Taking the view that the Parliament had not notified it, in accordance with the Financial Regulation, of the details of the successful tender and the price bid by the company selected, VIP

Car Solutions asked the Court of First Instance, inter alia, to annul the decision of the Parliament not to award the contract to it and to order the Parliament to pay EUR 500 000 by way of damages.

In today's judgment, the Court of First Instance points out, first, that the European Parliament enjoys a broad discretion with regard to the factors to be taken into account for the purpose of deciding to award a contract following an invitation to tender. It stresses, however, that the Parliament must respect the guarantees conferred by Community law in administrative procedures, such as the duty to state reasons for decisions. It is only in this way that the Community judicature is able to review whether the Parliament has exercised its discretion correctly.

Next, the Court of First Instance observes that the supplementary response by the Parliament does not show clearly and unequivocally the reasoning which it followed and thus does not allow VIP Car Solutions to understand the justification for the decision taken so that it can invoke its rights and does not allow the Community judicature to exercise its power of review.

This information was all the more necessary as the price bid by the applicant was lower than that bid by the successful tenderer and the price criterion was weighted at 55% in the overall evaluation of the tenders. VIP Car Solutions was thus given no information which would enable it to understand why its tender was not selected.

In the light of these considerations, **the Court of First Instance finds that the decision of the Parliament is vitiated by a failure to state reasons.**

Next the Court of First Instance points out that the **Parliament was obliged to notify** VIP Car Solutions, following its request in writing, **of the price bid by the company selected**, as that is one of the characteristics and one of the relative advantages of the successful tender. However, the Parliament merely indicated that the price bid by the successful tenderer was slightly higher than that bid by VIP Car Solutions.

Accordingly, **the Court of First Instance has annulled the decision of the Parliament.**

Finally, the Court of First Instance has declared VIP Car Solutions' application for damages inadmissible. First, that application does not give even the most basic details about the nature and character of the alleged loss and, second, it does not demonstrate the existence of a causal link between the unlawful conduct of the Parliament and that loss.

REMINDER: An appeal, limited to points of law only, may be brought before the Court of Justice of the European Communities against a decision of the Court of First Instance, within two months of its notification.

Unofficial document for media use, not binding on the Court of First Instance.

Languages available: DE EN FR

The full text of the judgment may be found on the Court's internet site

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=T-89/07>

It can usually be consulted after midday (CET) on the day judgment is delivered.

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