

The General Court erred in law in so far as it failed to fulfil its obligation to examine the documents affected by the refusal of access, stating that it could review the Commission's actions without examining the documentation in question.

4. Fourth ground alleging that the General Court contradicted itself and erred in law in so far as it failed to take sufficient account of the procedural defects committed when adopting the contested decision.

The judgment under appeal is vitiated by an error of law in so far as the General Court did not accept that the procedural defects committed by the Commission had an impact on the ability of the applicant to put forward its point of view as to the applicability of the presumption of confidentiality in the case at issue. The General Court failed to consider that the errors in question nullified the applicant's procedural rights and, thereby, transformed the general presumption of harm to the investigative activities from a rebuttable presumption to an irrebuttable one.

5. Fifth ground alleging error of law in so far as the General Court denied the existence of an overriding public interest.

The General Court erred in law by holding that there was no overriding public interest that can prevail against the exceptions in Article 4(2) of Regulation No 1049/2001 without taking into account the arguments put forward by the appellant in that regard.

⁽¹⁾ 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. 43).

Request for a preliminary ruling from the Sąd Apelacyjny w Warszawie (Poland) lodged on 17 June 2015 — Edyta Mikołajczyk v Marie Louise Czarnecka, Stefan Czarnecki

(Case C-294/15)

(2015/C 311/23)

Language of the case: Polish

Referring court

Sąd Apelacyjny w Warszawie

Parties to the main proceedings

Applicant: Edyta Mikołajczyk

Defendants: Marie Louise Czarnecka, Stefan Czarnecki

Questions referred

1. Are cases relating to annulment of a marriage following the death of one of the spouses within the scope of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 ⁽¹⁾?
2. In the event of an affirmative answer to Question 1, does the scope of that regulation extend to an action for annulment of marriage brought by a person other than one of the spouses?

3. In the event of an affirmative answer to Question 2, in actions for annulment of marriage brought by a person other than one of the spouses, may the jurisdiction of the court be based on the grounds mentioned in the fifth and sixth indents of Article 3(1)(a) of the regulation?

⁽¹⁾ OJ 2003 L 338, p. 1.

Request for a preliminary ruling from the Lietuvos Aukščiausiasis Teismas (Lithuania) lodged on 18 June 2015 — ‘Borta’ UAB v VĮ Klaipėdos valstybinio jūrų uosto direkcija

(Case C-298/15)

(2015/C 311/24)

Language of the case: Lithuanian

Referring court

Lietuvos Aukščiausiasis Teismas

Parties to the main proceedings

Appellant: ‘Borta’ UAB

Respondent: VĮ Klaipėdos valstybinio jūrų uosto direkcija

Questions referred

1. Must the provisions of Articles 37, 38, 53 and 54 of Directive 2004/17 ⁽¹⁾ be understood and interpreted, whether together or separately (but without limitation to those provisions), as meaning that:
 - (a) they preclude a national rule under which, in the case where subcontractors are invited to perform a works contract, the main work, as identified by the contracting authority, must be carried out by the supplier?
 - (b) they preclude a scheme, laid down in the procurement documents, for combining the professional capacities of suppliers, such as that specified by the contracting authority in the contested tender specification, which requires that the portion representing the professional capacity of the relevant economic operator (a joint-activity partner) must correspond to the portion of the specific work which it will actually carry out under the public procurement contract?
2. Must the provisions of Articles 10, 46 and 47 of Directive 2004/17 be understood and interpreted, whether together or separately (but without limitation to those provisions), as meaning that:
 - (a) the principles of equal treatment of suppliers and transparency are not infringed in the case where the contracting authority:
 - provides beforehand, in the procurement documents, a general option of combining the professional capacities of suppliers, but does not set out the scheme for implementing this option;
 - subsequently, in the course of the public procurement procedure, it defines in greater detail the requirements governing the appraisal of the qualifications of suppliers by laying down certain restrictions on combining the professional capacities of suppliers;
 - because of this more detailed definition of the content of the qualification requirements, it extends the deadline for tender submissions and announces this extension in the *Official Journal*?