

4. Fourth plea in law, alleging infringement of Article 5(5) and (6) of Annex III to the Staff Regulations, in that the selection board failed to include on that reserve list at least twice as many candidates as there were posts available in the competition.
5. Fifth plea in law, alleging infringement of the competition notice, Article 5(1) of Annex III to the Staff Regulations and a consequential manifest error of assessment since, in the AD 7 competition, the candidates' leadership abilities were assessed, whereas that quality should have been assessed solely vis-à-vis the AD 9 candidates.
6. Sixth plea in law, alleging infringement of the principles in the case-law in *Di Prospero v Commission* and infringement of Article 27 of the Staff Regulations and of the principle of equality in that the competition notice did not allow candidates to participate in both the AD 7 and AD 9 competitions, whereas certain candidates who had applied for the AD 9 competition were automatically transferred to the AD 7 reserve list.
7. Seventh plea in law, alleging infringement of the principle of equality of candidates and lack of objectivity of assessment, due to the lack of stability in the selection board as a result of frequent changes to the composition of the selection board and the absence of shadowing by the President.

Action brought on 2 May 2023 — WD v Commission

(Case T-236/23)

(2023/C 235/68)

Language of the case: Italian

Parties

Applicant: WD (represented by: M. Velardo, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

- Annul the measure of 5 May 2022 by means of which the applicant was not included on the reserve list for competition EPSO/AD/380/19-AD9;
- Annul the measure of 15 July 2022 refusing the request for review of the failure to include the applicant on the reserve list for competition EPSO AD/380/19-AD9;
- Annul the measure of the Appointing Authority of 14 February 2023 which was wrongfully drawn up following the silence maintained by EPSO for over four months and by which the complaint lodged on 14 October 2022 under Article 90(2) of the Staff Regulations of Officials of the European Union ('the Staff Regulations') was rejected;
- Order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the provisions of law governing the rules on languages in the EU institutions. Holding the written and oral tests in a language (English and French) other than his mother tongue made it impossible to assess accurately his skills, since the result of his tests was also conditional on his level of knowledge of that language. This also led to an infringement of Article 27 of the Staff Regulations.
2. Second plea in law, alleging infringement of the principle of equal treatment among candidates, a failure to assess candidates objectively (case-law in *Glantenay*) and infringement of Article 5(1) and (3) of Annex III to the Staff Regulations. Some of them in fact resat the written tests, which were markedly less difficult. The comparison between the candidates in the tests in the assessment centre was distorted because the selection board had not checked in advance the accuracy of the information from the talent screener.

3. Third plea in law, alleging infringement of the obligation to state reasons and of the related principle of equality of the parties to proceedings (Article 47 of the Charter of Fundamental Rights of the European Union) since the applicant was not put in a position to know all of the reasons for which he was excluded from the competition before he lodged his action. That also constituted an infringement of the principle of equality of arms in proceedings.
4. Fourth plea in law, alleging infringement of Article 5(5) and (6) of Annex III to the Staff Regulations, in that the selection board failed to include on that reserve list at least twice as many candidates as there were posts available in the competition.
5. Fifth plea in law, alleging infringement of the competition notice, Article 5(1) of Annex III to the Staff Regulations and a consequential manifest error of assessment since, in the AD 7 competition, the candidates' leadership abilities were assessed, whereas that quality should have been assessed solely vis-à-vis the AD 9 candidates.
6. Sixth plea in law, alleging infringement of the principles in the case-law in *Di Prospero v Commission* and infringement of Article 27 of the Staff Regulations and of the principle of equality in that the competition notice did not allow candidates to participate in both the AD 7 and AD 9 competitions, whereas certain candidates who had applied for the AD 9 competition were automatically transferred to the AD 7 reserve list.
7. Seventh plea in law, alleging infringement of the principle of equality of candidates and lack of objectivity of assessment, due to the lack of stability in the selection board as a result of frequent changes to the composition of the selection board and the absence of shadowing by the President.

Action brought on 3 May 2023 — WE v Commission

(Case T-237/23)

(2023/C 235/69)

Language of the case: Italian

Parties

Applicant: WE (represented by: M. Velardo, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

- Annul the measure of 5 May 2022 by means of which the applicant was not included on the reserve list for competitions EPSO/AD/380/19-AD 7 and EPSO/AD/380/19-AD9;
- Annul the measure of 15 July 2022 refusing the request for review of the failure to include the applicant on the reserve list for competitions EPSO/AD/380/19-AD 7 and EPSO AD/380/19-AD9;
- Annul the measure of the Appointing Authority of 12 February 2023 which was wrongfully drawn up following the silence maintained by EPSO for over four months and by which the complaint lodged on 12 October 2022 under Article 90(2) of the Staff Regulations of Officials of the European Union ('the Staff Regulations') was rejected;
- Order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of the provisions of law governing the rules on languages in the EU institutions. Holding the written and oral tests in a language (English and French) other than her mother tongue made it impossible to assess accurately her skills, since the result of her tests was also conditional on her level of knowledge of that language. This also led to an infringement of Article 27 of the Staff Regulations.