

They rely on the principle of good administration on the part of the Commission, in the observance of which there were serious shortcomings in this instance, as well as on the principle of the protection of legitimate expectations which extends to any trader in a situation in which an institution has caused it to entertain justified expectations.

The applicants submit that, in addition to financial damage, they have suffered non-material damage, *inter alia*, as a result of damage to their reputation and the need to defend themselves against accusations that proved to be incorrect and imaginary.

Action brought on 5 August 2016 — Italy v Commission

(Case T-437/16)

(2016/C 371/22)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: G. Palmieri, acting as Agent, and P. Gentili, avvocato dello Stato)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the notice of open competition EPSO/AD/322/16 for drawing up a reserve list of 86 candidates to fill vacant posts for Administrators (AD 5 and AD 7) in the field of audit, published in volume C 171 A of the Official Journal of the European Union on 12 May 2016;
- order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Articles 263, 264 and 266 TFEU.
 - The Commission has disregarded the authority of the judgment of the Court in Case C-566/10 P, which states that it is unlawful for notices of European Union open competitions to limit to English, French and German the languages which candidates can indicate as their second language.
2. Second plea in law, alleging infringement of Article 342 TFEU and of Articles 1 and 6 of Regulation No 1/58 determining the languages to be used by the European Economic Community (OJ, English Special Edition 1952-1958, p. 59).
 - The applicant argues in that regard that, by limiting to three the number of languages which may be eligible as the second language of candidates in European Union open competitions, the Commission has in practice established a new rule in relation to the languages of the institutions, thereby encroaching upon the Council's exclusive competence in that area.
3. Third plea in law, alleging infringement of Article 12 EC (now Article 18 TFEU), Article 22 of the Charter of Fundamental Rights of the European Union, Article 6(3) TEU, Article 1(2) and (3) of Annex III to the Staff Regulations, Articles 1 and 6 of Regulation No 1/58, and Article 1d(1) and (6), the second paragraph of Article 27, and Article 28(f) of the Staff Regulations.
 - The applicant argues in that regard that the linguistic restriction imposed by the Commission is discriminatory because the legislative provisions cited above prohibit a body from imposing on EU citizens or officials of the institutions linguistic restrictions which are not generally and objectively provided for under the institutions' rules of procedure as referred to in Article 6 of Regulation No 1/58 and which have not yet been adopted; they also prohibit a body from introducing such limitations unless they are justified by a specific substantiated interest of the service.

4. Fourth plea in law, alleging infringement of Article 6(3) TEU in so far as it establishes the principle of the protection of legitimate expectations as a fundamental right resulting from the constitutional traditions common to the Member States.

— The applicant argues in that regard that the Commission has frustrated EU citizens' expectations of being able to choose any language of the European Union as their second language, as was always the case up until 2007 and as was authoritatively confirmed in the judgment of the Court of Justice in Case C-566/10 P.

5. Fifth plea in law, alleging a misuse of powers and infringement of the substantive rules concerning the nature and purpose of competition notices.

— The applicant argues in that regard that, by restricting, in a pre-emptive and general manner, the number of languages eligible for use as a second language to three, the Commission has effectively placed the assessment of the candidates' linguistic abilities — an assessment which ought to be carried out in the course of the competition itself — before the notice and eligibility stages. Thus, a candidate's knowledge of languages, rather than his professional knowledge, becomes a decisive factor.

6. Sixth plea in law, alleging infringement of Article 18 and paragraph 4 of Article 24 TFEU, Article 22 of the Charter of Fundamental Rights of the European Union, Article 2 of Regulation No 1/58, and Article 1d(1) and (6) of the Staff Regulations.

— The applicant argues in that regard that, by making it compulsory for applications to be submitted in English, French or German and for any communications sent to candidates by EPSO regarding developments in the competition to be written in one of those languages, the Commission has infringed the right of EU citizens to interact with the institutions in their own language, and has created further discrimination against those citizens not having a thorough knowledge of those three languages.

7. Seventh plea in law, alleging infringement of Articles 1 and 6 of Regulation No 1/58, Article 1d(1) and (6) of the Staff Regulations, Article 1(1)(f) of Annex III to the Staff Regulations, and the second paragraph of Article 296 TFEU (failure to state reasons), infringement of the principle of proportionality, and misrepresentation of the facts.

— The applicant argues in that regard that the Commission has used the requirement that new recruits be capable of communication within the institutions as a means of justifying the 'three languages' restriction. That reasoning misrepresents the facts because those three languages are not the languages used most often for the purposes of communicating between different linguistic groups within the institutions; it is also a disproportionate restriction of the fundamental right not to suffer linguistic discrimination.

Action brought on 9 August 2016 — Italy v Commission

(Case T-443/16)

(2016/C 371/23)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: G. Palmieri, acting as Agent, and P. Gentili, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul notices of open competition EPSO/AD/323/16 and EPSO/AD/324/16.