

**Plea in law**

- Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

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**Action brought on 5 March 2023 — UJ and Others v Commission****(Case T-120/23)**

(2023/C 134/31)

*Language of the case: Italian***Parties**

*Applicants:* UJ and 12 other applicants (represented by: M. Velardo, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicants claim that the General Court should:

- Annul the measures of 5 May 2022 by means of which the applicants were not included on the reserve list for competitions EPSO/AD/380/19-AD 7 and EPSO AD/380/19-AD9;
- Annul the measures of 7 July 2022 refusing the request for review of the failure to include applicants UJ, UL, UM and UU on the reserve list for competitions EPSO/AD/380/19-AD 7 and EPSO AD/380/19-AD9;
- Annul the measures of the appointing authority of 5 November 2022 which were wrongfully drawn up following the silence maintained by the European Personnel Selection Office (EPSO) for over four months and by which the complaint lodged jointly by the applicants under Article 90(2) of the Staff Regulations of Officials ('the Staff Regulations') was rejected; and
- Order the Commission to pay the costs.

**Pleas in law and main arguments**

In support of the action, the applicants rely 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 their mother tongue made it impossible to assess accurately their skills, since the result of their tests was also conditional on their 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 panel 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 applicants were not put in a position to know all of the reasons for which they were excluded from the competition before they lodged their 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 of the Staff Regulations, in that the selection panel 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 of 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 panel as a result of frequent changes to the composition of the selection panel and the absence of shadowing by the President.

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**Action brought on 8 March 2023 — VA v Commission**

(Case T-123/23)

(2023/C 134/32)

*Language of the case: French*

**Parties**

*Applicant:* VA (represented by: N. de Montigny, lawyer)

*Defendant:* European Commission

**Forms of order sought**

The applicant claims that the General Court should:

- annul the decision of the PMO of 11 May 2022 which removes the applicant's entitlement to receive dependent child and education allowances as of 1 July 2021, and thereby removes the tax abatement associated with the dependent child allowance;
- annul the decision of PMO.1 of 13 June 2022 informing the applicant of the recovery, pursuant to Article 85 of the Staff Regulations, of an amount of EUR 3 500;
- order the defendant to pay the applicant compensation in the amount of EUR 2 441,84;
- order the defendant to pay the costs.

**Pleas in law and main arguments**

In support of his action against the decision of 11 May 2022, the applicant relies on three pleas in law.

1. First plea in law, alleging misinterpretation of the concepts of dependent child and attendance at an educational establishment, which entitle the applicant to receive education and dependent child allowances until the end of the school year.
2. Second plea in law, alleging inequality of treatment, by the Office for the Administration and Payment of Individual Entitlements (PMO), between children who completed their university education in the first session and those who completed their university education in the second session.
3. Third plea in law, alleging infringement of the principle of legal certainty and of the principle of sound administration.

In support of his action against the decision of 13 June 2022, the applicant relies on two pleas in law.

1. First, and principal, plea in law, alleging that the applicant was entitled to receive education and dependent child allowances in respect of his daughter for the period of 1 July to 30 September 2021.
  2. Second plea in law, alleging, in the alternative, that the payment of EUR 3 500 had a cause and was not irregular. Even if the payment had been irregular, the applicant takes the view that it is appropriate to find that he had no knowledge of the irregular nature of the payment and, in any case, the irregularity was in no way obvious, with the result that he could legitimately have believed that the payment was regular.
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