

Action brought on 4 March 2013 — Italy v Commission**(Case T-124/13)**

(2013/C 164/33)

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

Applicant: Italian Republic (represented by: G. Palmieri and P. Gentili, avvocati dello Stato)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul Notice of open competition EPSO/AST/125/12 for establishing a reserve list with 110 places for the purposes of filling vacant Assistant (AST 3) posts in the fields of audit, finance/accounting, and economics/statistics;
- annul Notice of open competition EPSO/AST/126/12 for establishing a reserve list with 78 places for the purposes of filling vacant Assistant (AST 3) posts in the fields of biology, life and health sciences, chemistry, physics and materials science, nuclear research, civil and mechanical engineering, and electrical engineering and electronics;
- annul Notice of open competition EPSO/AD/248/13 for establishing a reserve list with 29 places for the purposes of filling vacant Administrator (AD 6) posts in the fields of security of buildings and building services engineering;
- 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 Articles 263, 264 and 266 TFEU.
 - According to the applicant, the Commission has disregarded the authority of the judgment of the Court of Justice in Case C-566/10 P [*Italy v Commission* [2012] ECR I-0000], which finds 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 Articles 1 and 6 of Regulation No 1/58 determining the languages to be used by the European Economic Community.
 - In that regard, the applicant claims 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) EU; Articles 1(2) and 3 of Annex III to the Staff Regulations; Articles 1 and 6 of Regulation No 1/58; Articles 1d(1) and (6), 27(2) and 28(f) of the Staff Regulations.
 - In the applicant's view, 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) EU, 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.
 - According to the applicant, 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 misuse of powers and infringement of the substantive rules concerning the nature and purpose of competition notices (in particular, Articles 1d(1) and (6), 28(f) 27(2), 34(3) and 45(1) of the Staff Regulations), and a breach of the principle of proportionality.
 - According to the applicant, 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 the fourth paragraph 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.

— On that point, the applicant claims 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 right of EU citizens to interact with the institutions in their own language has been breached, and further discrimination against those citizens not having a thorough knowledge of those three languages has been created.

7. Seventh plea in law, alleging infringement of the second paragraph of Article 296 TFEU (failure to state reasons), breach of the principle of proportionality, and misrepresentation of the facts.

— The applicant claims 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. In reality, less restrictive systems exist for ensuring effective communication within the institutions.

Appeal brought on 25 March 2013 by the European Commission against the judgment of the Civil Service Tribunal of 15 January 2013 in Case F-27/11, BO v Commission

(Case T-174/13 P)

(2013/C 164/34)

Language of the case: French

Parties

Appellant: European Commission (represented by J. Currall and D. Martin, Agents)

Other party to the proceedings: BO (Amman, Jordan)

Form of order sought by the appellant

The appellant claims that the Court should:

- annul the judgment of the Civil Service Tribunal of 15 January 2013 in Case F-27/11 *BO v Commission*;
- dismiss the action brought by BO in Case F-27/11, ordering him to pay the costs of those proceedings;
- decide that each of the parties are to bear their own costs relating to the present proceedings.

Pleas in law and main arguments

In support of the appeal, the Commission relies on a single plea in law alleging infringement of Article 19 of the Common rules on the insurance of officials of the European Communities against the risk of disease and of point 2.5 of Chapter 12, entitled ‘Transport costs’, of Title II of the Commission Decision of 2 July 2007 laying down general implementing provisions for the reimbursement of medical expenses, in so far as the CST failed to have regard to the strict nature of the exclusion of reimbursement of transport costs laid down by that latter provision.

Action brought on 28 March 2013 — Moallem Insurance v Council

(Case T-182/13)

(2013/C 164/35)

Language of the case: English

Parties

Applicant: Moallem Insurance Co. (Tehran, Iran) (represented by: D. Luff, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

- Annul paragraph 18 of the Annex to Council Decision 2012/829/CFSP of 21 December 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2012 L 356, p. 71);
- Annul paragraph 18 of the Annex to Council Implementing Regulation (EU) No 1264/2012 of 21 December 2012 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2012 L 356, p. 55);