

3. Third plea: infringement of Articles 1 and 6 of Regulation No 1/58, Article 22 of the Charter, Article 1d(1) and (6) of the Staff Regulations, and Article 82 of the Conditions of Employment of other servants, because the choice of second language is improperly restricted to solely three languages, namely English, French and German, to the exclusion of the other official languages of the European Union.
4. Fourth plea: the choice of English, French and German, as the second language of the call for expressions of interest, constitutes an arbitrary choice that gives rise to discrimination on the ground of language prohibited by Article 1 of Regulation 1/58, Article 22 of the Charter and Article 1d(1) and (6) of the Staff Regulations.

⁽¹⁾ OJ 2016, C 131 A, p. 1.

⁽²⁾ Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ 1958, 17, p. 385), as last amended by Council Regulation (EU) No 517/2013 (OJ 2013, L 158, p. 1).

⁽³⁾ OJ 2016, C 202, p. 389.

Action brought on 8 July 2016 — European Commission v Federal Republic of Germany

(Case C-380/16)

(2016/C 314/20)

Language of the case: German

Parties

Applicant: European Commission (represented by: M. Owsiany-Hornung and M. Wasmeier, Agents)

Defendant: Federal Republic of Germany

Form of order sought

The applicant claims that the Court should:

- declare that, pursuant to the first paragraph of Article 258 of the Treaty on the Functioning of the European Union, the Federal Republic of Germany has failed to fulfil its obligations under Article 73 and Articles 306 to 310 of the VAT Directive (Directive 2006/112/EC) by excluding travel services used by taxable persons for their business from the special scheme for travel agents and allowing travel agents, in so far as the special scheme is applicable to them, to determine on a flat-rate basis the tax assessment base for groups of services and for each taxable period;
- order the Federal Republic of Germany to pay the costs of the proceedings.

Pleas in law and main arguments

The applicant submits that the scheme laid down in Germany for the calculation of value added tax on travel services is not consistent with Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax. ⁽¹⁾ That directive provides, in Articles 306 to 310, a special scheme under which the travel services provided by a travel agent to a customer are to be treated as a single service. German law unlawfully departs from that scheme.

First, it is not permitted to exclude taxable persons who use travel services for their business from the application of the special scheme. The Court has already ruled in its judgment of 26 September 2013 in Case C-189/11, ⁽¹⁾ *Commission v Spain*, that the special scheme must be applied not only to services provided to private final consumers but also to services provided to taxable traders. It is not open to the Member States to restrict the application of that scheme solely to the former category.

Second, the method of calculation provided for under the German law on turnover tax is incompatible with Directive 2006/112/EC. Pursuant to Article 73 and Articles 306 to 310 of that directive, the taxable amount must be determined separately for each journey. German law, by contrast, permits a flat-rate calculation of the profit margin for 'groups of services' or for all journeys within a specified period of time. The Court also held in the abovementioned judgment that a flat-rate calculation of that kind is not consistent with the common system of value added tax.

⁽¹⁾ OJ 2006 L 347, p. 1.

⁽²⁾ EU:C:2013:587.

**Appeal brought on 11 July 2016 by European Union Copper Task Force against the order of the
General Court (Third Chamber) delivered on 27 April 2016 in Case T-310/15: European Union
Copper Task Force v European Commission**

(Case C-384/16 P)

(2016/C 314/21)

Language of the case: English

Parties

Appellant: European Union Copper Task Force (represented by: C. Fernández Vicién, I. Moreno-Tapia Rivas, C. Vila Gisbert, abogadas)

Other party to the proceedings: European Commission

Form of order sought

The applicant claims that the Court should:

- Annul the Order of the Third Chamber of the General Court of the European Union of 27 April 2016 in Case T-310/15, *European Union Copper Task Force v. European Commission*.
- Declare the admissibility of the action for annulment lodged by the European Copper Task Force against the Commission Implementing Regulation (EU) 2015/408.
- Refer the case back to the General Court of the European Union for judgment.
- Order the European Commission to pay the costs generated by these proceedings.

Pleas in law and main arguments

1. The General Court committed an error of law by considering that Implementing Regulation 2015/408 ⁽¹⁾ is a regulatory act that entails implementing measures within the meaning of the fourth paragraph of Article 263 TFEU.
2. The General Court committed an error of law by considering that the dismissal of the EUCuTF's action would not impair its right and its members' right to effective judicial protection.