

2. The second ground is divided into two parts. In the first part of the second ground, the Commission alleges an error of law in interpreting Article 1d of the Staff Regulations, according to which a limitation in the choice of a second language does not necessarily constitute discrimination, and may be justified in the light of a general objective, such as the interest of the service relation to staff policy. In the second part of the second ground, the Commission maintains that the General Court acted in breach of its obligation to state reasons, on the ground that, in searching for a justification for the limitation of the choice of second language, the General Court, in the judgment under appeal, confined itself to examining notices of competition solely, whereas it should have taken into consideration the General Provisions and their content.
3. The third ground is divided into three parts. In the first part of the third ground, the Commission submits that the General Court could not consider, without erring in its interpretation of Article 28f of the Staff Regulations, that the requirements relating to linguistic ability do not form part of a candidate's competences to which Article 27 of the Staff Regulations refers. In the second part of the third ground, the Commission claims that the General Court incorrectly defined the parameters of its powers of review, which should have been limited to ascertaining whether there had been a manifest error of assessment or arbitrary treatment. By the third part of the third ground, the Commission argues that the General Court overstepped the bounds of its powers of review, by carrying out an assessment of the merits of the decision not to include, in addition to the three languages mentioned in the competition notices (English, German and French), other languages; the General Court thereby exercised the power reserved to the administration.
4. By the fourth ground of appeal, the Commission submits that the General Court erred in law in its interpretation of Article 2 of Regulation No 1/58 by considering that communications between EPSO and the candidates came within the scope of that provision, thus excluding any possibility of restricting the choice of second language. In fact, the possibility of imposing such a restriction is derived, according to the Commission, from Article 1d(5) and (6) of the Staff Regulations, to which candidates in a competition procedure are also subject.

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**Request for a preliminary ruling from the Sø- og Handelsretten (Denmark) lodged on 7 December 2016 — Ernst & Young P/S v Konkurrencerådet**

**(Case C-633/16)**

**(2017/C 046/19)**

*Language of the case: Danish*

**Referring court**

Sø- og Handelsretten

**Parties to the main proceedings**

*Applicant:* Ernst & Young P/S

*Defendant:* Konkurrencerådet

**Questions referred**

1. What criteria are to be applied in assessing whether the conduct or actions of an undertaking are covered by the prohibition in Article 7(1) of Council Regulation No 139/2004<sup>(1)</sup> on the control of concentrations between undertakings (the prohibition of advance implementation), and does implementing action within the meaning of Article 7(1) presuppose that the action, wholly or in part, factually or legally, forms part of the actual change of control or merging of the continuing activities of the participating undertakings which — provided the quantitative thresholds are met — gives rise to the obligation of notification?
2. Can the termination of a cooperation agreement, as in the present case, which is announced under circumstances corresponding to those described in the order for reference constitute an implementing action covered by the prohibition in Article 7(1) of Council Regulation No 139/2004, and what criteria are then to be applied in making a decision?
3. Does it make any difference in answering Question 2 whether the termination has actually given rise to market effects relevant to competition law?

4. If the answer to Question 3 is in the affirmative, clarification is requested as to what criteria and what degree of probability should be applied in deciding in the particular case whether the termination has given rise to such market effects, including the significance of the possibility that those effects could be attributed to other causes.

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<sup>(1)</sup> Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (OJ 2004 L 24, p. 1).

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**Request for a preliminary ruling from the Juzgado de lo Contencioso-Administrativo No 1 of Pamplona lodged on 9 December 2016 — Wilber López Pastuzano v Delegación del Gobierno de Navarra**

**(Case C-636/16)**

(2017/C 046/20)

*Language of the case: Spanish*

**Referring court**

Juzgado de lo Contencioso-Administrativo of Pamplona

**Parties to the main proceedings**

*Applicant:* Wilber López Pastuzano

*Defendant:* Delegación del Gobierno de Navarra

**Question referred**

Must Article 12 of Council Directive 2003/109/EC <sup>(1)</sup> of 25 November [2003] concerning the status of third-country nationals who are long-term residents be interpreted as precluding national legislation, such as that issue in the main proceedings, and the case-law interpreting it, which does not provide for the application of the requirements of protection against the expulsion of a long-term resident foreign national to all administrative expulsion decisions regardless of the legal nature or type thereof, but instead restricts the application of those requirements to a specific type of expulsion?

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<sup>(1)</sup> OJ 2004 L 16, p. 44.