

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 9 January 2017 in Case R 478/2016-1

Form of order sought

The applicant claims that the Court should:

- set aside the Decision of the First Board of Appeal of the European Union Intellectual Property Office of 9 January 2017 in Case R 478/2016-1, which partially upheld the appeal filed by Solemo Oy and partially annulled the decision ruling on opposition No. B 2472267, against the European Union trademark application No. 13.318.993 ‘Claro Sol Facility Services desde 1972’ property of the appellant, by virtue of which the said trademark has been entirely rejected in classes 37 and 39 and partially rejected in class 35;
- grant the application for registration of the European Union trademark No. 13.318.993 ‘Claro Sol Facility Services desde 1972’ for all services covered in classes 35, 37 and 39, due to the lack of existence of likelihood of confusion on the part of the public in the territory in which the earlier national trademark, registered in Finland under No. 250.356 ‘SOL’, property of the intervener, is protected;
- order the intervener to bear the costs of the procedure.

Plea in law

- Infringement of Article 8(1)(b) of Regulation No 207/2009.

Action brought on 31 March 2017 — Calhau Correia de Paiva v Commission

(Case T-202/17)

(2017/C 195/44)

Language of the case: English

Parties

Applicant: Ana Calhau Correia de Paiva (Brussels, Belgium) (represented by: V. Villante and G. Pandey, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- Annul and set aside the following decisions and acts, where appropriate having previously declared illegal and not applicable to the applicant the Notice of Competition EPSO/AD/293/14 and the linguistic regime at issue under Article 277 TFEU:
 - the decision of the European Personnel Selection Office (EPSO) and of the Selection Board of 09/11/15 not to include the name of the candidate on the reserve list drawn from the competition EPSO/AD/293/14;
 - the decision of EPSO and of the Selection Board of 23/06/2016 not to reconsider the decision of 09/11/2015 and not to re-admit the candidate’s name on the reserve list;
 - the decision of EPSO of 22/12/2016 to respond unfavorably to the applicant’s administrative complaint under Article 90(2) of the Staff Regulations against the decision of the Selection Board not to enter her name in the reserve list of competition EPSO/AD/293/14 and against the negative review decision.
 - the reserve list of the competition EPSO/AD/293/14.
- Order the European Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging the breach of Article 1 of the Staff Regulations, of the principle of non-discrimination, of the principle of proportionality, and of the principle of equal opportunity with regard to the imposition by EPSO of a QWERTY EN, AZERTY FR/BE or QWERTZ DE keyboard for the realisation of the case study as well as a manifest error of assessment.
2. Second plea in law, alleging the breach of Regulation No 1 of 1958 with regard to the language regime endorsed and reinforced by the notice competition for EPSO/AD/293/14 together with a plea of illegality and inapplicability of the Notice of Competition EPSO/AD/293/14.
3. Third plea in law, alleging breach of Article 1 of the Staff Regulations, of the principle of non-discrimination and of the principle of proportionality with regard to EPSO's and/or the Selection Board's limiting of the choice of second language of candidates in the competition to German, English and French.
4. Fourth plea in law, alleging breach of the principle of equal opportunity with regard to the examination procedure for EPSO's competition.
5. Fifth plea in law, alleging breach of Article 296(2) TFEU and Article 25 of the Staff Regulations with regard to EPSO's failure to state reasons for their decisions to endorse and promote a particular language regime and also alleging that the notice of competition and Article 41 of the Charter of Fundamental rights of the European Union were breached when EPSO pursued functions which are attributed to the Selection Board.

Action brought on 3 April 2017 — GY v Commission

(Case T-203/17)

(2017/C 195/45)

Language of the case: French

Parties

Applicant: GY (represented by: S. Orlandi and T. Martin, lawyers)

Defendant: European Commission

Form of order sought

Declare and rule that

- The decision of the selection board for competition EPSO/AD/293/14 of 23 December 2016 not to admit the applicant to the assessment centre is annulled;
- The European Commission is ordered to pay a sum assessed *ex aequo et bono* at EUR 5 000 in respect of the non-pecuniary harm suffered;
- The European Commission is, in any event, ordered to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement by the selection board of the obligation to state reasons insofar as it did not disclose to the applicant the marking criteria which it adopted in execution of the judgment of 20 July 2016, *GY v Commission*, F-123/15, EU:F:2016:160.
2. Second plea in law, alleging infringement by the selection board of the competition notice insofar as it arbitrarily restricted its assessment of the applicant's professional experience by, in connection with three questions, looking only at the duration of that experience.