

The applicant claims that the Court should:

- declare the internal competition A/270 invalid and void, or at least declare invalid the decision of the Selection Board of 28 July 2003 not to admit the applicant to the oral test;
- order the defendant to pay the costs of the applicant

Pleas in law and main arguments

The challenged Decision in the present case is the non-admission of the applicant to the oral test of the internal competition A/270, which offered grade B officials to acquire grade A.

In support of his conclusions, the applicant claims that:

- the content of one of the written tests (A 1) was not confined within the limits that were laid down in the notice of the competition. With regard to this, it is stated that instead of making an analysis of a file with respect to a particular EU issue and summarizing it, the candidates were also expected to give their own strategic input. The test required an approach, and the application of different intellectual and writing skills, other than those for which the candidates were prepared. This deviation constitutes a breach of the requirements for the notification of competitions as laid down in Article 1, Annex III, of the Staff Regulations.
- One of the working documents handed out for the A 1 tests contained contradictions and errors. These imperfections constitute a breach of both the principle of non-discrimination and the principle of good management and sound administration.
- The Spanish version of one of the working documents contained additional fundamental errors. This constitutes a breach of the principle of non-discrimination between candidates of different nationalities participating in the test.
- They have reasons to believe that the mastery of the Italian language within the Selection Board was not sufficient to objectively assess the Italian tests, which would constitute a breach of the principle of non-discrimination.
- There has been a lack of non-discriminatory standards for the evaluation of the written test and lack of transparency due to the lack of an evaluation memorandum, both of which impaired the possibility of judicial scrutiny and control.

Action brought on 12 November 2003 by Solo Italia S.r.l. against the Office for Harmonisation in the Internal Market

(Case T-373/03)

(2004/C 21/80)

(Language of the case: French)

An action against the Office for Harmonisation in the Internal Market was brought before the Court of First Instance of the European Communities on 12 November 2003 by Solo Italia, established in Ossoona (Italy), represented by A. Bensoussan, M.-E. Haas, L. Tellier-Loniewski, lawyers, with an address for service in Luxembourg.

The applicant claims that the Court should:

- declare the action to be admissible and, accordingly, annul Decision No R 0208/2003-2 of the Board of Appeal of 10 September 2003 and hold that it is for the Office to draw the appropriate conclusions from the operative part of and the grounds for the judgment to be adopted;
- rule on the costs and order the defendant to bear its own costs and to pay all of the applicant's costs.

Pleas in law and main arguments

Applicant for Community trade mark:	Solo Italia S.r.l.
Community trade mark sought:	Word mark 'PARMITALIA' in respect of goods in Class 29 (cheeses).
Proprietor of mark or sign cited in the opposition proceedings:	Nuova Sala S.r.l.
Mark or sign cited in opposition:	Figurative Community trade mark 'PARMITAL' for goods in Class 29 (Italian grated cheeses).
Decision of the Opposition Division:	Refusal of the application for registration.

Decision of the Board of Appeal: Dismissal of the appeal as inadmissible as a result of a failure to comply with the time-limit prescribed for lodging appeals.

Pleas in law:

- infringement of Article 6 of the European Convention on Human Rights in that notification by fax does not satisfy the requirement for security of notification in proceedings.
- in the alternative, infringement of Rules 55, 61 and 65 of Commission Regulation No 2868/95 and of Article 59 of Regulation No 40/94.

Pleas in law and main arguments

Competition notice CONSEIL/A/270 stated that candidates were required to have a perfect command of one of the official languages of the European Communities, a very good knowledge of either English or French and an adequate knowledge of the other of those two languages. However, candidates choosing French or English as the language of which they had a perfect command were required to show evidence of a very good knowledge of the other of those two languages and also an adequate knowledge of a third official language. By his first plea, the applicant claims that this provision discriminates between, on the one hand, anglophone and francophone candidates and, on the other, other candidates. In that context, he relies on breach of the principle of equal treatment and also of subparagraph f of the first paragraph of Article 28 of the Staff Regulations. By his second plea, the applicant claims that, at the third written test, candidates were asked to write a brief account of the role of the Secretariat General of the Council, in breach of the competition notice, which provided for an account of the activities of the Council. The third plea refers to the Council's refusal to grant the applicant access to the corrected copy of his third written test. The applicant pleads infringement of Article 255(1) EC and also breach of the obligation to state reasons and of the principles of good management and good administration.

Action brought on 10 November 2003 by Michel Hendrickx against Council of the European Union

(Case T-376/03)

(2004/C 21/81)

(Language of the case: French)

An action against the Council of the European Union was brought before the Court of First Instance of the European Communities on 10 November 2003 by Michel Hendrickx, residing in Brussels, represented by Sébastien Orlandi, Albert Coolen, Jean-Noël Louis and Etienne Marchal, lawyers, with an address for service in Luxembourg.

The applicant claims that the Court should:

- annul the decisions of the Selection Board for competition CONSEIL/A/270 to award him an eliminatory mark for written test A.3 and not to admit him to the oral tests;
- order the Council to pay the applicant symbolic damages of one euro for the non-pecuniary harm sustained;
- order the defendant to pay the costs.

Action brought on 17 November 2003 by ATI Technologies Inc. against the Office for Harmonisation in the Internal Market

(Case T-377/03)

(2004/C 21/82)

(Language of the case: French)

An action against the Office for Harmonisation in the Internal Market was brought before the Court of First Instance of the European Communities on 17 November 2003 by ATI Technologies Inc., established in Thornhill (Canada), represented by Chantal Silvia Moreau, lawyer, with an address for service in Luxembourg.

Asociación de Técnicos de Informática — ATI was also a party to the proceedings before the Board of Appeal.