

Form of order sought

- annul the decision by EPSO of 27 June 2007 and its implied decision to reject the applicant's confirmatory application of 10 July 2007, relating to his right to access to EPSO documents;
- order EPSO to send to him (i) a true copy of the questions put to him and his answers at the two preliminary tests (a) and (b) when he took part in the Open Competition EPSO/AD/77/06 (OJ C 277 A, p. 1) to constitute a reserve list for recruitment by the European institutions of administrator linguists (AD 5) having Greek as main language, in the field of translation and (ii) a true copy of the list of correct answers to those two preliminary tests taken by him;
- order the Commission of the European Communities and EPSO to pay the costs.

Pleas in law and main arguments

The applicant claims that the refusal of the European Personnel Selection Office (EPSO) to provide to him a true copy of the questions put to him and his answers at the two preliminary tests (a) and (b) when he took part in the Open Competition EPSO/AD/77/06 (OJ C 277 A, p. 1) and a true copy of the list of the correct answers to those preliminary tests taken by him, is a decision which is unlawful and insufficiently justified, given that it infringes his right to access to the documents of the European institutions under Article 255 EC and Articles 2 and 4 of Regulation (EC) No 1049/2001⁽¹⁾, and that the statement of its reasons is very vague and infringes Article 253 EC. At the same time, according to the applicant, the refusal of EPSO to produce the above documents is contrary to the principles of transparency, proper administration, legal certainty and the protection of the legitimate expectations of citizens.

⁽¹⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, p. 43).

Action brought on 3 October 2007 — Poland v Commission**(Case T-379/07)**

(2007/C 283/69)

*Language of the case: Polish***Parties**

Applicant: Republic of Poland (represented by: T. Nowakowski, Agent)

Defendant: Commission of the European Communities

Form of order sought

- declare invalid Commission Regulation (EC) No 804/2007 of 9 July 2007 establishing a prohibition of fishing for cod in the Baltic Sea (Subdivisions 25-32, EC Waters) by vessels flying the flag of Poland⁽¹⁾;
- order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

The applicant seeks a declaration that Commission Regulation (EC) No 804/2007 of 9 July 2007 establishing a prohibition of fishing for cod in the Baltic Sea (Subdivisions 25-32, EC Waters) by vessels flying the flag of Poland is invalid. The contested regulation provides that, as from 11 July 2007, the part of the catch quota for cod allocated to the applicant for 2007 in the Baltic Sea is deemed to have been exhausted and prohibits, for the period from 11 July 2007 to 31 December 2007, further fishing for cod in that area by vessels flying the Polish flag and the retention on board, transshipment or landing of cod caught by such vessels.

In support of its contention, the applicant accuses the Commission of committing flagrant mistakes in calculating the quantities of cod landed by Polish fishing vessels and alleges a breach of Council Regulation (EC) No 1941/2006 of 11 December 2006 fixing the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in the Baltic Sea for 2007⁽²⁾. In the context of the present head of complaint the applicant submits that the Commission based its findings in respect of the amounts of cod caught by Polish fishing vessels on data which, in the applicant's opinion, are arbitrary and unrepresentative, derived from inspections carried out by the Commission's own inspectors and in disregard of data from the Polish Sea Fishing Information System.

The applicant further submits that the contested regulation infringes the principle of proportionality inasmuch as, in its view, the prohibition of catches which it introduces gives rise to fundamental unfavourable socio-economic effects which are significantly greater than the hypothetical advantages with regard to the conservation of cod stocks. The applicant accuses the Commission of foregoing an appraisal of those effects before it adopted the contested regulation and of failing to consider the possibility of attaining the objectives pursued by using means which would be less detrimental to the society and economy of maritime areas.

In the grounds of its action the applicant also argues that the contested regulation is inadequately reasoned and that this, in its opinion, makes it impossible to verify the expediency and legality of the prohibition which it introduces.

The applicant also alleges infringement of the principle of solidarity and genuine cooperation, and criticises the Commission for failing to engage in dialogue and not making it possible for the applicant to clarify certain contentious issues before it adopted the contested regulation.

The applicant concludes by contending that the contested regulation infringes the right freely to exercise an economic activity inasmuch as the prohibition of catches which it introduces affects persons who are unable in practical terms to alter the type of activity which they pursue and for whom fishing is their only means of subsistence, *a fortiori* as that prohibition is total and does not allow of any exceptions.

⁽¹⁾ OJ 2007 L 180, p. 3.

⁽²⁾ OJ 2006 L 367, p. 1.

Action brought on 25 September 2007 — Kaloudis v OHIM — Fédération Française de Tennis (Roland Garros SPORTSWEAR)

(Case T-380/07)

(2007/C 283/70)

Language in which the application was lodged: French

Parties

Applicant: Dimitrios Kaloudis (Dassia-Corfu, Greece) (represented by: G. Kaloudis, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal of OHIM: Fédération Française de Tennis

Form of order sought

- Annul the Decision of the Fourth Board of Appeal of OHIM of 19 July 2007;
- Allow the application for the Community trade mark Roland Garros SPORTSWEAR No 3114477 for Class 25;
- Order the other party to the proceedings before the Board of Appeal to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: the applicant.

Community trade mark concerned: figurative mark 'Roland Garros SPORTSWEAR' for goods in Class 25 — application No 3114477.

Proprietor of the mark or sign cited in the opposition proceedings: Fédération Française de Tennis

Mark or sign cited in opposition: national mark 'Roland Garros' for goods in Classes 3, 16, 18, 22, 25, 28, 32, 41 and 42.

Decision of the Opposition Division: opposition upheld for all the goods in dispute.

Decision of the Board of Appeal: appeal brought by the applicant deemed not filed by reason of the late payment of the appeal fee.

Action brought on 27 September 2007 — Italy v Commission

(Case T-381/07)

(2007/C 283/71)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: P. Gentili, Avvocato dello Stato)

Defendant: Commission of the European Communities

Form of order sought

- annul Memorandum No 007584 of 18 July 2007 of the European Commission, Directorate-General for Regional Policy — Programmes and projects in Cyprus, Greece, Hungary, Italy, Malta and the Netherlands, concerning payments made by the Commission which differ from the amount requested. Ref. DOCUP Toscana Ob. 2 (No CCI 2000 IT 16 2DO 001);
- annul Memorandum No 009059 of 21 August 2007 of the European Commission, Directorate-General for Regional Policy — Programmes and projects in Cyprus, Greece, Hungary, Italy, Malta and the Netherlands, concerning certification and the intermediate statement of expenses and claim for payment. Ref. DOCUP Veneto Ob. 2 2000-2006 (No CCI 2000 IT 16 2DO 005);
- annul Memorandum No 009061 of 21 August 2007 of the European Commission, Directorate-General for Regional Policy — Programmes and projects in Cyprus, Greece, Hungary, Italy, Malta and the Netherlands, concerning payments made by the Commission which differ from the amount requested. Ref. DOCUP Ob. 2 'Lazio' 2000-2006 (No CCI 2000 IT 16 2DO 009);
- annul Memorandum No 009249 of 29 August 2007 of the European Commission, Directorate-General for Regional Policy — Programmes and projects in Cyprus, Greece, Hungary, Italy, Malta and the Netherlands, concerning payments made by the Commission which differ from the amount requested. Ref. DOCUP Piemonte 2000-2006 (No CCI 2000 IT 16 2DO 007);