

**Order of the President of the Court of First Instance of  
14 November 2008 — Artisjus v Commission**

(Case T-411/08 R)

*(Applications for interim measures — Commission decision ordering the cessation of a concerted practice in connection with the collective management of copyright — Application for suspension of operation of a measure — No urgency)*

(2009/C 69/90)

Language of the case: English

**Parties**

*Applicant:* Artisjus Magyar Szerzői Jogvédő Iroda Egyesület (Budapest, Hungary) (represented by: Z. Hegyemegi-Barakonyi and P. Vörös, lawyers)

*Defendant:* Commission of the European Communities (represented by: F. Castillo de la Torre and V. Bottka, acting as Agents)

**Re:**

Application for suspension of operation of Articles 3 and 4(2) and (3) of Commission Decision C(2008) 3435 final of 16 July 2008 relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement (Case COMP/C2/38.698 — CISAC) in so far as they relate to the applicant.

**Operative part of the order**

1. *The application for interim measures is dismissed.*
2. *Costs are reserved.*

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**Appeal brought on 12 January 2009 by Georgi Kerelov against the judgment of the Civil Service Tribunal delivered on 29 November 2007 in Case F-19/07 Kerelov v Commission**

(Case T-60/08 P)

(2009/C 69/91)

Language of the case: French

**Parties**

*Appellant:* Georgi Kerelov (Pazardzhik, Bulgaria) (represented by A. Kerelov, lawyer)

*Other party to the proceedings:* Commission of the European Communities

**Form of order sought by the appellant**

- Annul the judgment of the European Union Civil Service Tribunal of 29 November 2007 in Case F-19/07 *Kerelov v Commission*;
- admit the pleadings submitted by the appellant at first instance;
- order the respondent to pay all the costs.

**Pleas in law and main arguments**

By the present appeal, the appellant seeks annulment of the judgment of the Civil Service Tribunal (CST) of 29 November 2007 delivered in Case F-19/07 *Kerelov v Commission*, dismissing the action by which the appellant sought, on the one hand, annulment of the decisions of the selection board of open competition EPSO/AD/43/06 not to include him on the reserve list of that competition and to exclude him therefrom, and, on the other, damages in compensation for the loss allegedly suffered.

In support of his appeal, the appellant relies on ten pleas in law, alleging:

- breach of the principles governing the administrative procedure with regard to proof, since the CST reversed the burden of proof;
- breach of the principle of an adversarial process, since the CST did not give the appellant sufficient time to take a position on the new documents added to the file;
- breach of the principle of the public nature of the proceedings, since the CST did not hold a fresh hearing following the lodging of new documents;
- breach of the duty of impartiality, since the CST did not take the steps necessary to examine the file;
- an error in law, since the CST held that the selection board, not the Director of the European Personnel Selection Office (EPSO), has the power to exclude a candidate;
- an error in law, since the CST considered that prohibition on contact between competition candidates and members of the selection board ends upon publication of the reserve list in the *Official Journal of the European Union*, and not when the selection board completes its work;
- breach of the relevant principles of administrative law by confirming the decision of the selection board of 2 February 2007 to exclude the appellant from the competition, since:
  - the original version of that decision was not added to the file;
  - that decision does not contain factual grounds sufficiently precise for its addressee to be aware of the exact facts on which it was based; and