

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of Article 45 of the Staff Regulations of Officials of the European Union and of the internal promotion system in place within the Court of Justice of the European Union;
2. Second plea in law, alleging infringement of the principles of equal treatment and of a single European civil service.

Action brought on 17 January 2017 — RQ v Commission

(Case T-29/17)

(2017/C 095/24)

Language of the case: French

Parties

Applicant: RQ (represented by: É. Boigelot, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- declare his action admissible and well founded;
- consequently, annul the European Commission's decision of 2 March 2016, C(2016)1449 final, relating to a request for waiver of immunity, notified on 11 March 2016 and of which the Director General learned on 14 March 2016 on his return from mission;
- so far as necessary, annul the decision of 5 October 2016, under reference Ares(2016)5814495 — 07/10/2016, notified on 7 October 2016, by which the appointing authority rejected the applicant's complaint, which he had submitted on 10 June 2016 under reference No R/317/16;
- order the defendant in any event to pay all the costs, in accordance with Article 134(1) and 135 of the Rules of Procedure of the General Court.

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 infringement of the Staff Regulations of Officials of the European Union ('the Staff Regulations'), in particular Article 23 thereof, and of Article 17 of the Protocol (No. 7) on the Privileges and Immunities of the European Union, and breach of the principle requiring the administration to hand down decisions only on the basis of legally admissible grounds, by which is meant grounds which are relevant and not vitiated by manifest errors of assessment.
2. Second plea in law, alleging infringement of the Staff Regulations, in particular Article 24 thereof, and breach of the duty to have regard to the interests of officials.
3. Third plea in law, alleging infringement of the obligation to state reasons, in particular infringement of the third indent of Article 41(2) of the Charter of Fundamental Rights of the European Union, of Article 296 of the Treaty on the Functioning of the European Union, of Article 25 of the Staff Regulations and of the public interest.

4. Fourth plea in law, alleging breach of the principle of legitimate expectations and manifest error of assessment.
5. Fifth plea in law, alleging infringement of the normal exercise of the rights of the defence, in particular of the right to be heard, the duty of impartiality and the observance of the principle of the presumption of innocence, and the failure to act diligently, in particular as regards the observance of reasonable time-limits.

Action brought on 24 January 2017 — Lotte v EUIPO — Nestlé Schöller (Representation of a koala)

(Case T-41/17)

(2017/C 095/25)

Language in which the application was lodged: German

Parties

Applicant: Lotte Co. Ltd (Tokyo, Japan) (represented by: M. Knitter, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Nestlé Schöller GmbH & Co. KG (Nuremberg, Germany)

Details of the proceedings before EUIPO

Applicant for an EU trade mark: Applicant

Trade mark at issue: EU figurative mark (Representation of a koala) — Application for registration No 6 158 463

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 28 October 2016 in Case R 250/2016-5

Form of order sought

The applicant claims that the Court should

- annul the contested decision;
- reject the opposition in its entirety;
- order EUIPO to pay the costs of these proceedings.

Pleas in law

- Infringement of Article 42(2) and (3) of Regulation No 207/2009;
 - Infringement of Rule 22(3) of Regulation No 2868/95;
 - Infringement of Article 15(1)(a) of Regulation No 207/2009;
 - Infringement of Article 8(1)(b) of Regulation No 207/2009.
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