

C/2023/1170

4.12.2023

**Action brought on 6 October 2023 — ZY v Commission****(Case T-618/23)**

(C/2023/1170)

*Language of the case: Italian***Parties***Applicant:* ZY (represented by: M. Velardo, lawyer)*Defendant:* European Commission**Form of order sought**

The applicant claims that the General Court should:

- annul the decision of the Selection Board in Competition EPSO/AD/394/21-1(AD7) not to place her on the reserve list, notified on 18 October 2022;
- annul the decision of the Selection Board in Competition EPSO/AD/394/21-1(AD7), notified on 2 December 2022, refusing the request for review of the decision to exclude her from the reserve list;
- annul the decision rejecting the complaint submitted on 1 March 2023, deemed to have been adopted on 1 July 2023 since EPSO failed to reply within the four-month period within the meaning of Article 90 of the Staff Regulations of Officials of the European Union ('the Staff Regulations'), and order the European Commission to pay the costs.

**Pleas in law and main arguments**

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

1. First plea in law, alleging infringement of the legal provisions governing the language regime of the European institutions. Infringement of the principle of equality. Infringement of Article 27 of the Staff Regulations. Infringement of the obligation to state reasons. The notice of competition, in respect of which the applicant raises a plea of illegality, limited the languages that could be used during the assessment centre tests to English and French. This gave rise to an infringement of the provisions governing the language regime in the European Union which accords the same dignity to each of the 24 official languages. Likewise the principle of the equal treatment of candidates and Article 27 of the Staff Regulations were infringed, since the level of knowledge of languages, differing between all the candidates, influenced their performance and the testing of their competencies. The reasoning adopted for the choice of language regime, essentially based on the interest of the service, is not consistent with the required rules concerning the full statement of reasons.
2. Second plea in law, alleging infringement of the principle of equality, infringement of the notice of competition, infringement of the principle of good administration (corollary the right of defence), infringement of the obligation to state reasons, infringement of the obligation to take into account the well-being of candidates and infringement of the principle that candidates' legitimate expectations must be observed. On account of technical and organisational problems during the conduct of the tests on the pre-established date, the applicant had to undergo the case study a second time, under conditions different from those guaranteed to the other candidates. This gave rise to the infringement of the aforementioned principles.
3. Third plea in law, alleging manifest error of assessment, infringement of the Staff Regulations, infringement of the notice of competition, infringement of the principle of equality, infringement of the principle of equality in relation to the stability of the Selection Board, misuse of powers and infringement of the principle of proportionality.

The assignment of the correction of scripts to external assessors and the sub-division into panels at the time of conducting the oral tests entailed the infringement of the aforementioned principles, essentially because of the failure to carry out beforehand checks of the external assessors' competence and their level of knowledge of English and French.

4. Fourth plea in law, alleging manifest error of assessment, infringement of the competition notice, infringement of the principle of equality also in relation to the breach of own requirements, and infringement of the principle of good administration, in relation to admission to the assessment centre of candidates who had not passed the MCQ tests and their inclusion in the comparative assessment of merits.

Even candidates who had not passed the MCQ tests were admitted to the assessment centre tests, thereby infringing the aforementioned principles and rules.

5. Fifth plea in law, alleging breach of own requirements and consequent infringement of the principle of equality and infringement of the principle of good administration, inasmuch as the tests did not ensure that the candidates' ability to communicate orally was adequately assessed.
  6. Sixth plea in law, alleging manifest error of assessment, infringement of the obligation to state reasons, infringement of the Staff Regulations, infringement of the principle of equality, infringement of the competition notice, and misuse of powers in relation to the field-related interview and the competency-based interview, on account of the considerable fluctuations in the composition of Selection Board that examined the candidates and the failure to comply with the obligation to abstain on the part of members of that board, including the Vice Chairperson thereof.
  7. Seventh plea in law, alleging infringement of Article 27 of the Staff Regulations, through the introduction of a staff-selection system based on quotas, not on the assessment of a candidate's competencies. It is apparent from a document published on the website of the European Anti-Fraud Office (OLAF) that quotas on the reserve list had to be set aside for candidates destined for other institutions.
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