

C/2025/1893

7.4.2025

Action brought on 3 February 2025 – HP v Commission

(Case T-84/25)

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Language of the case: English

Parties

Applicant: HP (represented by: L. Levi and P. Baudoux, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the Commission's decision of 13 March 2023 notifying the applicant of her exclusion from the certification procedure for 2022/2023;
- if need be, annul the Commission's decision 25 October 2024 rejecting the applicant's complaint of 12 June 2024 concerning her exclusion from the certification procedure for 2022/2023;
- order the defendant to compensate the applicant for the moral prejudice suffered;
- order the defendant to pay all the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging the breaches of Article 45a of the EU Staff Regulations, of the Commission Decision C(2013) 68591 of 22 October 2013 on general provisions for implementing Article 45a of the Staff Regulations ('the general implementation provisions'), and of the Guidelines for applicants and Directorates Generals/services regarding the certification procedure for the 2022/2023 Exercise ('the guidelines 2022/2023'), as well as a breach of the principles of legal certainty, equal treatment and duty of care and diligence:
 - in the abovementioned disputed decisions of 13 March 2023 and 25 October 2024, the Commission breached Article 45a of the EU Staff Regulations and the principle of equal treatment because the Joint Certification Panel ('the JC panel') did not take into consideration the candidates' appraisal reports during the first assessment of their merits. However, during the second reassessment of the applicant's application (following the 31 October 2023 decision upholding her first complaint), the JC panel consulted the applicant's appraisal reports. By not using the same method to compare the merits of the candidates, the JC panel infringed the principle of equal treatment;
 - the JC panel also disregarded the principle of equal treatment because during the reassessment of the applicant's profile/merits, it used a revised evaluation grid (departing from the initial evaluation grid that was used to assess the merits of the other candidates);
 - the JC panel also breached the principle of legal certainty because the general implementation provisions were not applied in a uniform manner;
 - by not applying the rules in a uniform manner, and by not taking into consideration the appraisal reports during the first assessment of the candidates' merits, the defendant also breached its duty of care and diligence because due to this irregularity, it could not select the most suitable candidates for participating to the certification training;
 - for the oral interview with the JC panel, the latter should have mentioned the weighting factor given to each criterion – as the general implementation provisions impose transparency to the certification procedure.

2. Second plea in law, in the alternative, alleging a plea of illegality of Point II.5 of the guidelines 2022/2023 as it breaches Article 8(3) of the general implementation provisions. Assuming the defendant did not breach the applicable rules, the applicant raises a plea of illegality of Point II.5 of the guidelines 2022/2023, as this provision does not comply with Article 8(3) of the general implementation provisions. The criteria set out in Point II.5 of the guidelines 2022/2023 for the evaluation grid are illegal because they do not perfectly reflect the criteria mentioned in Article 8(3) of the general implementation provisions.
3. Third plea in law, alleging the breach of the duty to state reasons and the right to a sound administration. In the evaluation grid of the JC panel, the comments about the applicant's merits and performances were very general and did not include information specific to the applicant and did not precise the elements that were taken into consideration to assess the merits of the applicant. Furthermore, the applicant does not know the weighting factor given to each criterion and therefore does not understand the conclusions made by the JC panel as well as the disputed decisions excluding her from the certification procedure.
4. Fourth plea in law, alleging the breach of the right to be heard. Under Article 45a of the EU Staff Regulations, the applicant should have been heard by the JC panel. However, the JC panel did not invite the applicant to provide her observations before delivering their opinion to the appointing authority. If the applicant had had the opportunity to effectively exercise her right to be heard, the outcome would have been different.
