

## EUROPEAN UNION CIVIL SERVICE TRIBUNAL

### Order of the Civil Service Tribunal (First Chamber) of 15 December 2009 — Apostolov v Commission

(Case F-8/09) <sup>(1)</sup>

(Civil service — Officials — Action inadmissible — Delay)

(2010/C 37/78)

*Language of the case: English*

#### Parties

*Applicant:* Apostolov (Saarwellingen, Germany) (represented by: D. Schneider-Addaeh-Mensah, lawyer)

*Defendant:* Commission (represented by: J. Currall and B. Eggers, Agents)

#### Re:

Annulment of the decision of EPSO not to include the applicant's name in the reserve list for selection procedure EPSO/CAST27/4/07

#### Operative part of the order

1. Dismisses the action as inadmissible.
2. Orders Mr Apostolov to pay the costs.

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<sup>(1)</sup> OJ C 244, 10.10.2009, p. 16.

### Action brought on 17 December 2009 — Bennett and Others v OHIM

(Case F-102/09)

(2010/C 37/79)

*Language of the case: French*

#### Parties

*Applicants:* Kelly-Marie Bennett (Mutxamel, Spain) and Others (represented by: L. Levi, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market

#### Subject-matter and description of the proceedings

First, annulment of the decisions to terminate the applicants' contracts pursuant to a termination clause linked to passing an open competition with a specialisation in intellectual property. Secondly, compensation for the non-material harm suffered by the applicants.

#### Form of order sought

The applicants claim that the Tribunal should:

- annul the decisions to terminate the applicants' contracts, dated 12 March 2009;
- so far as necessary, annul the decision of 9 October 2009, notified on the same day, rejecting the complaints brought by the applicants on 12 June 2009;
- consequently, order the defendant (i) by way of damages and interest, to pay the applicants the remuneration in respect of the period from the date on which the termination of their contracts took effect until the date of their reinstatement on account of the annulment of the decisions taken and (ii) to reconstitute the career of each applicant unlawfully halted by the decisions to terminate their contracts; in the event that the applicants' reinstatement results in significant practical difficulties or is excessive with regard to the situation of a third party, order the defendant to pay monetary compensation equitable to the unlawful termination of the applicants' contracts. Such compensation must take into account, inter alia, not only the loss of remuneration with regard to the past but also the applicant's genuine opportunity to remain in the service of OHIM until their retirement age under a contract for an (fully) indeterminate period and to develop in their career;
- in the alternative, annul the decisions to terminate the applicants' contracts in so far as the duration of the notice period was not fixed taking into account all the years of service of each of the applicants within OHIM;
- order the defendant to pay damages and interest to compensate for the material and non-material harm suffered, assessed on equitable principles at EUR 85 000 in respect of each of the applicants;