

Case T-226/10

Prezes Urzędu Komunikacji Elektroniczej

v

European Commission

(Action for annulment — Representation by lawyers who are not third persons —
Inadmissibility)

Order of the General Court (Seventh Chamber), 23 May 2011 II - 2469

Summary of the Order

Procedure — Application initiating proceedings — Formal requirements — Conditions relating to a signatory — Third party capacity in relation to the parties

(Statute of the Court of Justice, Arts 19, first, third and fourth paras, and 21, first para.; Rules of Procedure of the General Court, Art. 43(1), first para.)

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It is apparent from the first, third and fourth paragraphs of Article 19 and the first paragraph of Article 21 of the Statute of the Court of Justice as well as the first subparagraph of Article 43(1) of the Rules of Procedure of the General Court, in particular from the use of the term ‘represented’ in the third paragraph of the said Article 19, that, in order to bring an action before the General Court, ‘a party’, within the meaning of that provision, is not permitted to act itself but must use the services of a third person authorised to practise before a court of a Member State or of a State which is a party to the Agreement on the European Economic Area. That requirement to use a third person is based on a view of the lawyer’s role as being required to provide, in full independence and in the overriding interests of justice, such legal assistance as the client needs.

rules is not enough in itself to demonstrate that the persons connected to the applicant by an employment relationship were entitled to represent the applicant before the Court. Indeed, the concept of the independence of lawyers is defined not only positively, that is by reference to professional ethical obligations, but also negatively, that is to say, by the absence of an employment relationship. It follows that the existence of a subordinate relationship within an authority, the sole function of which is to assist the applicant, implies a degree of independence less than that of a legal adviser or a lawyer practicing in a firm that is external to their client.

In those circumstances, any obligation of independence flowing from the professional

(see paras 12, 14-18, 21, 25)