

1. First plea in law, alleging breach of Articles 263, 264 and 266 TFEU.
  - The Commission has disregarded the authority of the judgment of the Court of Justice in Case C-566/10 P, which declares competition notices which limit to English, French and German only the languages which candidates may offer as a second language to be unlawful.
2. Second plea in law, alleging breach of Article 342 TFEU and Articles 1 and 6 of Regulation No 1/58.
  - It is argued in this regard that, by limiting to three the languages which can be chosen as a second language by candidates in open competitions of the European Union, the Commission has in practice created new rules on the use of languages, thus encroaching on the exclusive competence of the Council in this area.
3. Third plea in law, alleging breach of Article 12 EC, now Article 18 TFEU; Article 22 of the Charter of Fundamental rights of the European Union; Article 6(3) EU; Article 1(2) and (3) of Annex III to the Staff Regulations of Officials; Articles 1 and 6 of Regulation No 1/58; Article 1d(1) and (6), Article 27, second paragraph, and Article 28(f) of the Staff Regulations of Officials.
  - It is argued in this regard that the language restriction introduced by the Commission is discriminatory because the rules cited prohibit the imposition on European citizens and on officials of the institutions language restrictions which are not provided for in a general and objective manner by the internal rules of the institutions contemplated by Article 6 of Regulation No 1/58, and not yet adopted, and prohibit the introduction of such limitations in the absence of a specific interest of the service, backed up by reasons.
4. Fourth plea in law, concerning the breach of Article 6(3) EU in so far as it lays down the principle of the protection of legitimate interests as a fundamental right derived from the constitutional traditions common to the Member States.
  - It is argued in this regard that the Commission has breached the expectation of citizens that they will be able to choose any language of the European Union as a second language, as they always were until 2007 and as was authoritatively confirmed by the judgment of the court of Justice in Case C-566/10 P.
5. Fifth plea in law, concerning the misuse of powers and the breach of essential rules inherent in the nature and purpose of competition notices.
  - It is argued in this regard that, by restricting to three in advance and in general the languages which may be chosen as a second language to three, the Commission has in fact anticipated at the stage of the notice and the admission criteria the verification of the linguistic competences of the candidates, which should be carried out during the competition. In that way, linguistic knowledge becomes the decisive factor with regard to professional knowledge.
6. Sixth plea in law, concerning breach of Articles 18 and 24(4) TFEU; Article 22 of the Charter of Fundamental Rights of the European Union; Article 2 of Regulation No 1/58; and Article 1d(1) and (6) of the Staff Regulations of Officials.
  - It is argued in this regard that, through the provision that applications had to be sent in in English, French or German and that EPSO would send candidates communications relating to the progress of the competition in the same language, the right of European citizens to dialogue with the European institutions in their own language has been breached and further discrimination has been introduced against those who do not have a thorough knowledge of those three languages.
7. Seventh plea in law, concerning the breach of Articles 1 and 6 of Regulation No 1/58; Article 1d(1) and (6) and Article 28(f) of the Staff Regulations, Article 1(1)(f) of Annex III to the Staff Regulations; and Article 296(2) TFEU (failure to state reasons) and breach of the principle of proportionality. Distortion of the facts.
  - It is argued in this regard that the Commission justified the restriction to three languages by the requirement that the new recruits should be able to communicate within the institutions. That justification distorts the facts because it is not the case that the three languages in question are the ones most used for communication between the various language groups within the institutions; and it is disproportionate with regard to the restriction of a fundamental right such as the right not to suffer discrimination on grounds of language.

**Action brought on 15 May 2013 — Now Wireless/OHIM  
— Starbucks (HK) (now)**

**(Case T-278/13)**

(2013/C 207/82)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Now Wireless Ltd (Guildford, United Kingdom) (represented by: T. Alkin, Barrister)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)

*Other party to the proceedings before the Board of Appeal:* Starbucks (HK) Ltd (Hong Kong, China)

**Form of order sought**

The applicant claims that the Court should:

- Annul the contested decision; and

- Order Community Trade Mark Registration No 1421700 to be revoked on grounds of non-use;
- Order the registered proprietor to pay the costs incurred by the applicant.

### Pleas in law and main arguments

*Registered Community trade mark in respect of which an application for revocation has been made:* The figurative mark containing the word element 'now' for services in classes 35, 41 and 42 — Community trade mark No 1 421 700

*Proprietor of the Community trade mark:* The other party to the proceedings before the Board of Appeal

*Party applying for revocation of the Community trade mark:* The applicant

*Decision of the Cancellation Division:* Partially revoked the Community trade mark registration

*Decision of the Board of Appeal:* Dismissed the appeal

*Pleas in law:* Infringement of Article 51(1)(a) and (2) of Council Regulation No 207/2009.

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### Action brought on 24 May 2013 — Ezz and Others/ Council

(Case T-279/13)

(2013/C 207/83)

*Language of the case:* English

### Parties

*Applicants:* Ahmed Abdelaziz Ezz (Giza, Egypt), Abla Mohammed Fawzi Ali Ahmed Salama (Cairo, Egypt), Khadiga Ahmed Ahmed Kamel Yassin (London, United Kingdom), Shahinaz Abdel Azizabdel Wahab Al Naggar (Giza, Egypt) (represented by: J. Lewis, Queen's Counsel, B. Kennelly, Barrister, and J. Binns, Solicitor)

*Defendant:* Council of the European Union

### Form of order sought

The applicants claim that the Court should:

- Annul Council Decision 2013/144/CFSP of 21 March 2013 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt amending Council Decision 2011/172/CFSP (OJ 2013 L 82, p. 54) and Council Regulation (EU) No 270/2011 of 21 March 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt (OJ 2011 L 76,

p. 4) as continued by decision of the Council dated 21 March 2013, insofar as they apply to the applicants; and

- Order the defendant to pay the costs.

### Pleas in law and main arguments

In support of the action under Article 263 TFEU, the applicants rely on six pleas in law.

1. First plea in law, alleging that (a) Council Decision 2013/144/CFSP lacked a proper legal base since it did not satisfy the requirement of Article 29 TEU; and (b) Council Regulation (EU) No 270/2011 could not be continued since it did not satisfy the requirements of its purported legal base: Article 215(2) TFEU.
  2. Second plea in law, alleging that the criterion for adopting restrictive measures as set out in Article 1 of Council Decision 2011/172/CFSP and in Article 2 of Council Regulation (EU) No 270/2011, is not fulfilled. In addition, it is being alleged that the defendant's justification for the adoption of restrictive measures against the applicants is entirely vague, non-specific, unsubstantiated, unjustified, and insufficient to justify the application of such measures.
  3. Third plea in law, alleging that the defendant has violated the applicants' rights of defence and the right to effective judicial protection as (a) the restrictive measures provide no procedure for communicating to the applicants the evidence on which the decision to freeze their assets was based, or for enabling them to comment meaningfully on that evidence; (b) the reasons given contain a general, unsupported, vague allegation of judicial proceedings; and (c) the defendant has not given sufficient information to enable the applicants effectively to make known their views in response, which does not permit a Court to assess whether the Council's decision and assessment was well founded and based on compelling evidence.
  4. Fourth plea in law, alleging that the defendant has failed to give the applicants sufficient reasons for their inclusion in the contested measures, in violation of its obligation to give a clear statement of the actual and specific reasons justifying its decision, including the specific individual reasons that led it to consider that the applicants were responsible for misappropriating Egyptian State funds.
  5. Fifth plea in law, alleging that the defendant has infringed, without justification or proportion, the applicants' right to property and to reputation.
  6. Sixth plea in law, alleging that defendant's inclusion of the applicants in the list of persons against whom restrictive measures will apply is based on a manifest error of assessment.
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