

Form of order sought

The applicant claims that the Court should:

- annul the decision of the EPSO selection board of 7 March 2017 not to admit the applicant to the next stage of open competition EPSO/AD/331/16;
- annul the decision of the appointing authority Ares(2017)s. 4916702 of 14 September 2017, rejecting the applicant's complaint against the decision not to admit the applicant to open competition EPSO/AD/331/16;
- order the defendant to pay the applicant's legal and other costs and expenses incurred in connection with the present application.

Pleas in law and main arguments

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

1. First plea in law, alleging a manifest error of assessment by the defendant in the assessment of the applicant's professional qualifications.
2. Second plea in law, alleging infringement of the notice of competition EPSO/AD/331/16.
3. Third plea in law, alleging inadequate and contradictory reasoning such as to constitute a breach both of Article 25 and of Article 90(2) of the Staff Regulations.

Action brought on 14 December 2017 — Lietuvos geležinkeliai v Commission

(Case T-814/17)

(2018/C 052/53)

Language of the case: English

Parties

Applicant: Lietuvos geležinkeliai AB (Vilnius, Lithuania) (represented by: W. Deselaers, K. Apel, P. Kirst, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul, in whole or in part, Articles 1, 2, 3 and 4 of Commission Decision C(2017) 6544 final of 2 October 2017 relating to proceedings under Article 102 TFEU in Case AT.39813 — Baltic Rail; and/or
- reduce the fines imposed on the applicant by Article 2 of Commission Decision C(2017) 6544 final dated 2 October 2017; and
- order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging a violation of Article 102 TFEU, a manifest error of law by using the wrong legal test to evaluate the alleged abuse. According to the applicant, there could be an abuse only if access to the Track were essential or indispensable for competitors to compete on the downstream market (which is not the case).

2. Second plea in law, alleging a violation of Article 102 TFEU and manifest errors of law and assessment. The applicant puts forward that even under the (wrong) legal test applied by the Commission, the removal of the rail track connecting Mažeikiai in north-western Lithuania with the Latvian border (the 'Track') as non-essential facility did not constitute an abuse of a dominant position in the legal and factual circumstances of the present case.
3. Third plea in law, alleging a breach of Article 296 TFEU and Article 2 of Regulation 1/2003 to the extent that, according to the applicant, there is insufficient evidence and failure to state reasons.
4. Fourth plea in law, alleging a violation of Article 23.3 of Regulation 1/2003, and manifest errors of law and of assessment in setting the amount of the fine.
5. Fifth plea in law, alleging a violation of Article 7 of Regulation 1/2003, manifest errors of law and assessment in ordering, in fact, a disproportionate remedy (i.e. the reconstruction of the Track).

Action brought on 12 December 2017 — Vitromed v EUIPO — Vitromed Healthcare (VITROMED Germany)

(Case T-821/17)

(2018/C 052/54)

Language in which the application was lodged: German

Parties

Applicant: Vitromed GmbH (Jena, Germany) (represented by: M. Linß, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Vitromed Healthcare (Jaipur, India)

Details of the proceedings before EUIPO

Applicant for the trade mark at issue: Applicant

Trade mark at issue: EU figurative mark including the word elements 'VITROMED Germany' — Application No 14 459 903

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 26 September 2017 in Case R 2402/2016-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- reject the opposition in its entirety;
- order the opposing party to pay the costs.

Plea in law

- Infringement of Article 8(1)(b) of Regulation No 207/2009.
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