— Part 2: The General Court erred in law in para. 169 to 175 about the lack of a legal basis in German law.

— Part 3: The General Court erred in law in paragraphs 175 to 177 concerning the divergence of legal views in Germany.

— Part 4: The General Court erred in law in paragraphs 178 to 182 about the application of the derogation in Germany.

— Part 5: The General Court erred in law in paragraphs 183 to 190 about the motivation of the local authorities.

— Part 6: The General Court erred in law in paragraphs 191 to 195 concerning the necessity to investigate the underlying legal framework.

— Part 7: The General Court erred in law in paragraphs 196 to 202 concerning the legal interpretation applied by the local German authorities based and on a 'conclusion by analogy'.

5) The General Court erred in law by rejecting the appellant's additional arguments to support the finding that the Commission was not faced with 'serious difficulties'.

— Part 1: The General Court erred in law in paragraphs 222 to 229 by rejecting the appellant's argument concerning the fact that the national law does not require the authorities to impose fines.

— Part 2: The General Court erred in law in paragraphs 231 to 234 by ignoring the appellant's argument concerning the Court's judgment in the Radlberger case and the infringement of Art. 34 TFEU.

6) The General Court erred in law in paragraphs 238 by annulling the entire Commission's Decision, including the part on VAT.

Appeal brought on 19 August 2021 by the European Commission against the judgment of the General Court (First Chamber) delivered on 9 June 2021 in Case T-202/17, Calhau Correia de Paiva v Commission

(Case C-511/21 P)

(2022/C 2/20)

Language of the case: English

Parties

Appellant: European Commission (represented by: B. Schima, I. Melo Sampaio, L. Vernier, Agents)

Other party to the proceedings: Ana Calhau Correia de Paiva

Form of order sought

The Appellant claims that the Court should:

— set aside the judgment under appeal;

— dismiss the second, third and fourth pleas of the action brought by the Applicant at first instance;

— refer the case back to the General Court to rule on the first and fifth pleas of the action brought by the Applicant at first instance, and

— reserve the decision on the costs.

Pleas in law and main arguments

The present Appeal is directed against paragraphs 54-58 of the judgment under appeal, i.e. the part of the judgment concerning the admissibility plea of illegality raised by the Applicant against the language regime of the competition at issue.

The Commission raises a single ground of appeal, which is that the General Court erred in law by concluding that there was a close connection between the statement of reasons of the contested decision and the language regime set out in the notice of competition, thereby admitting that the plea of illegality of this language regime was admissible.

This single ground of appeal is divided in three parts:

(1) First, the General Court made an erroneous legal qualification of the facts, at paragraph 54 of the judgment under appeal, by inferring from the mark obtained by the Applicant for the general competency 'Communication' a close connection between the language regime of the competition at issue and the statement of reasons of the contested decision.

(2) Second, at paragraphs 55-57 of the judgment under appeal, the General Court made an erroneous legal qualification of the facts, by admitting the close connection on the basis of the fact that it is more difficult for a candidate to sit tests in his or her Language 2 than in his or her mother tongue. The General Court also distorted the evidence by neglecting the fact that, in the case at hand, the two other languages that the Applicant mastered the best were English and French. The limitation of the choice of the Language 2 to English, French and German thus could not cause her any disadvantage.

(3) Third and last, at paragraph 58 of the judgment under appeal the General Court erroneoulsy qualified the facts by grounding the close connection also on the fact that the Applicant had to sit the written test with another keyboard configuration than the QWERTY-PT she is accustomed to. First, this is unrelated to the reasoning of the contested decision. Second, even if a limited choice of keyboard configurations is made available by EPSO (AZERTY, QWERTY-EN, and QWERTZ-DE), this is a distinct issue from the language regime of the competition.

Request for a preliminary ruling from the Landgericht Mainz (Germany) lodged on 31 August 2021 — ID v Stadt Mainz

(Case C-544/21)

(2022/C 2/21)

Language of the case: German

Referring court

Landgericht Mainz

Parties to the main proceedings

Applicant: ID

Defendant: Stadt Mainz

Questions referred

1. Does it follow from EU law, in particular from Article 4(3) TEU, the third paragraph of Article 288 TFEU and Article 260(1) TFEU, that, in the context of ongoing court proceedings between private persons, Article 15(1), (2)(g) and (3) of Directive 2006/123/EC [1] of the European Parliament and of the Council of 12 December 2006 on services in the internal market ('the Services Directive') has direct effect in such a way that the national provisions contrary to that directive that are contained in Paragraph 4 of the German Verordnung über die Honorare für Architekten- und Ingenieurleistungen (Decree on fees for services provided by architects and engineers) of 1996, as amended in 2002 ('the 2002 HOAI'), pursuant to which the minimum rates for planning and supervision services provided by architects and engineers laid down in that official scale of fees are mandatory — save in certain exceptional cases — and any fee agreement in contracts with architects or engineers which falls short of the minimum rates is invalid, are no longer to be applied, even in the case of claims arising from an architect's contract concluded in 2004, that is to say, prior to the adoption of the Services Directive?