

Pleas in law

- Infringement of Article 103 of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of the general principles of EU law.

Action brought on 27 December 2021 — NQ v Council and Others**(Case T-803/21)**

(2022/C 109/34)

*Language of the case: Portuguese***Parties***Applicant:* NQ (represented by: R. Leandro Vasconcelos and M. Martins Pereira, lawyers)*Defendants:* Council of the European Union, European Commission, European External Action Service (EEAS)**Form of order sought**

The applicant claims that the General Court should:

- annul the decision of the Commission's Service for Foreign Policy Instruments (FPI) of 1 December 2021 and the decision not to recommend the applicant for future EU election observation missions (EOM) for five years;

in the alternative, in the event that the Court finds that these are not the acts to be contested,

annul the appraisal of 16 October [2021];

in the further alternative, in the event that the Court finds that none of these are the acts to be contested,

annul the decision of the Deputy Chief Observer (DCO) of 22 October [2021];

- order the European Commission and, should the Court so find, the EEAS and the Council of the European Union to bear their own costs and pay those incurred by the applicant.

Pleas in law and main arguments

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

1. First plea in law, alleging breach of the right to be heard

The appraisal procedure, which culminated in the appraisal report of 16 October 2021, was conducted in breach of the applicant's right to be heard with regard to the draft appraisal report, that is to say, before the final decision was adopted. That right follows from the right to sound administration, enshrined in Article 41 of the Charter of Fundamental Rights of the European Union ('the Charter').

2. Second plea in law, alleging breach of the obligation to state reasons

The contested decision was adopted by the FPI in breach of the obligation to state reasons. That obligation is enshrined in the second paragraph of Article 296 TFEU. It is also referred to in Article 41(2)(c) of the Charter. It is not possible to identify, in the grounds of the contested decision, the reasons for the decision not to recommend the applicant and to apply a five-year exclusion measure.

3. Third plea in law, alleging breach of the principle of legal certainty

The contested decision was adopted in breach of the principle of legal certainty. The principle of legal certainty is a general principle of EU law. The contested decision does not refer to the legal basis of the exclusion measure, and the latter also cannot be identified by reference to other elements of the decision.

4. Fourth plea in law, alleging breach of the principle of proportionality

The imposition of a decision not to recommend the applicant for future missions for a period of five years is disproportionate, since the alleged breaches of the Code of Conduct at issue lack seriousness.

5. Fifth plea in law, alleging infringement of the right to private and family life

The contested decision infringes the right to private and family life, enshrined in Article 7 of the Charter and in Article 8 of the European Convention on Human Rights (ECHR). The applicant's family commitments did not prevent the applicant from carrying out her remaining tasks.

6. Sixth plea in law, alleging infringement of freedom of expression

The contested decision infringes the applicant's freedom of expression. Freedom of expression is enshrined in Article 11 of the Charter and Article 10 ECHR. That freedom extends to the expression, orally or in writing, of opinions that dissent from or conflict with those held by the employing institution.

Action brought on 4 January 2022 — Puma v EUIPO — Doosan Machine Tools (PUMA)

(Case T-4/22)

(2022/C 109/35)

Language of the case: English

Parties

Applicant: Puma SE (Herzogenaurach, Germany) (represented by: P. González-Bueno Catalán de Ocón, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Doosan Machine Tools Co. Ltd (Seongsan-gu, Changwon-si, South Korea)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Application for European Union figurative mark PUMA — Application for registration No 11 376 209

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 28 October 2021 in Case R 1677/2020-1

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO and Doosan Machine Tools Co., Ltd to pay the costs of the proceedings.

Plea in law

- Infringement of Article 8(5) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.
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