



C/2024/4316

15.7.2024

Action brought on 28 May 2024 – Italian Republic v European Parliament

(Case C-381/24)

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Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: G. Palmieri, Agent, and D. D'Alberti and P. Gentili, avvocati dello Stato)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

- annul, pursuant to Article 263 TFEU and Article 51, first paragraph, (a) of the Statute of the Court of Justice of the European Union, the Notice of open competition – PE/AD/300/2024 – seeking to identify 30 successful candidates of Austrian nationality with the profile of administrator (at Grade AD 6) for the Secretariat of the European Parliament, published in the *Official Journal of the European Union* on 4 March 2024, Series C;
- annul, or in any event declare inapplicable, pursuant to Article 277 TFEU, the general implementing provisions giving effect to Article 27 of the Staff Regulations, adopted by the Bureau of the European Parliament on 21 November 2022, in so far as concerns Articles 1 and 2 of those implementing provisions, and as a consequence annul the notice referred to in the preceding point;
- annul the reserve list created following the competition subject of the annulled notice;
- order the European Parliament to pay the costs.

Pleas in law and main arguments

The Italian Government contests competition Notice – PE/AD/300/2024, which seeks to identify 30 successful candidates of Austrian nationality with the profile of administrator (at Grade AD 6) for the Secretariat of the European Parliament, and the general implementing provisions giving effect to Article 27 of the Staff Regulations, adopted by Bureau of the European Parliament on 21 November 2022.

It infers, with reference to the notice:

- 1) a failure to state reasons (Article 296 TFEU) for the apodictic nature of the statement according to which the services of the European Parliament are, in terms of nationalities, imbalanced to the detriment of Austria and such imbalances can be overcome only by publishing competitions reserved for candidates having a certain nationality;
- 2) a failure to conduct a proper preliminary investigation and infringement of the principle of sound administration (Article 41 of the Charter of Fundamental Rights of the European Union), in that the investigation and the factual information on which the European Parliament reached that conclusion are not known;
- 3) a direct infringement of Article 27 of the Staff Regulations and of the general implementing provisions thereof laid down by the European Parliament by decision of 21 November 2022: it is not, in fact, stated or demonstrated that the prerequisite which those provisions provide for in order to publish competitions reserved for candidates having a certain nationality has been established;
- 4) infringement of the principle of proportionality, in that the discriminatory measure, even considering the unclear preliminary investigation on which it is based, seems excessive with respect to the objective pursued;
- 5) infringement of the rules and principles relating to equality of languages in competitions (Article 1d(6) of the Staff Regulations and Article 1(1)(f) of Annex III thereto), recently reaffirmed by the Court in the judgment of 8 May 2024, *France v Commission* (T-555/22): publishing competitions limited to certain nationalities necessarily restricts the languages that can be used in the competition to those of the nationalities concerned.

In relation to both of the contested acts, the Italian Government claims:

- 6) a misuse of powers and a breach of the substantive rules inherent in the nature and purpose of competition notices;
 - 7) infringement of Article 27(2) of the Staff Regulations and of the principle of proportionality;
 - 8) a failure to state reasons (infringement of Article 296 TFEU and Article 41(2), third indent, of the Charter of Fundamental Rights of the European Union).
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