



Reports of Cases

Judgment of the General Court (Single Judge) of 13 December 2018 – Kakol v Commission

(Cases T-641/16 RENV and T-137/17)

(Staff case — Officials — Recruitment — Notice of competition — Open competition — Non-admission of a candidate to take part in the tests of the assessment centre — Non-recognition of qualifications or diplomas — Admission to a previous competition — Conditions for similar competitions — Concordance rule between the request and the complaint — Res judicata — Non-compliance with the prior administrative procedure — Measure adversely affecting the applicant within the meaning of Article 91 of the Staff Regulations — Competence of the authority which adopted the measure — Claim for damages)

1. *Actions brought by officials — Prior administrative complaint — Correspondence between the complaint and the application — Pleas not set out in the complaint — Inadmissibility*

(Staff Regulations of Officials, Art. 91(2))

(see paras 64-68, 71)

2. *Actions for annulment — Judgment annulling a measure — Scope — Absolute authority of res judicata — Scope — Both operative part and grounds to be taken into account*

(Arts 264 and 266 TFEU)

(see paras 74-77)

3. *Actions brought by officials — Actions for damages — Autonomy in relation to the action for annulment — Admissible despite the lack of a pre-litigation procedure in accordance with the Staff Regulations — Condition — Application for damages linked to an application for annulment*

(Staff Regulations of Officials, Arts 90 and 91)

(see paras 80, 81)

4. *Actions brought by officials — Acts adversely affecting an official — Decision adopted after reconsideration of a previous decision — Decision adopted by a competition selection board after reconsideration of the candidate's situation*

(Staff Regulations of Officials, Arts 90 and 91)

(see paras 83, 92)

5. *Actions brought by officials — Action against a decision rejecting a complaint — Admissibility — Obligation to rule on pleas directed against the decision rejecting the complaint — Pleas devoid of independent content or purely confirmatory decision — Absence*

(Staff Regulations of Officials, Arts 90 and 91)

(see para. 84)

6. *Judicial proceedings — Costs — Burden thereof — Taking into account of the requirements of equity*

(Rules of Procedure of the General Court, Arts 134(1) and 135(1))

(see paras 102, 103, 106, 109)

Re:

Application under Article 270 TFEU seeking, first, the annulment of the decisions of 14 February 2014, notified on 2 May 2016, and of 25 November 2016 not to admit the applicant to the assessment centre tests for competition AD/177/10, organised by the European Personnel Selection Office (EPSO), on the ground that she did not fulfil the specific conditions relating to qualifications or diplomas required in the competition notice, or rejecting her complaint against that refusal of admission, and, secondly, that the Commission be ordered to pay her the sum of EUR 5 000 as compensation for the non-material damage she allegedly suffered as a result of the vexatious nature of the processing of her application.

Operative part

The Court:

1. Joins Cases T-641/16 RENV and T-137/17 for the purposes of the judgment;
2. Rules, in Case T-641/16 RENV, that there is no longer any need to adjudicate on the application for annulment and, dismisses the remainder of the action;
3. Dismisses the action in Case T-137/17;

4. Orders each party to bear its own costs relating to Cases T-641/16 RENV and T-137/17 and Cases F-48/14 and T-152/15 P.