

**Action brought on 27 February 2007 — Dragoman v Commission****(Case F-16/07)**

(2007/C 129/44)

*Language of the case: Romanian***Parties***Applicant:* Adriana Dragoman (Brussels, Belgium) (represented by: G. Dinulescu, lawyer)*Defendant:* Commission of the European Communities**Form of order sought**

- Annul the verbal decision of the selection board of Competition EPSO/AD/34/06 of 28 November 2006 by which that selection board awarded the applicant an 'eliminating mark' for the first oral interpretation test, which mark, pursuant to the notice of that competition, did not permit the applicant to take the following oral interpretation tests or the final oral test;
- Annul the written decision confirming the abovementioned decision, which was added to the applicant's EPSO file on 12 December 2006;
- Run the competition again especially for the applicant, in strict compliance with all the provisions of Community law and the provisions of the notice of competition;
- Find and declare that Article 6 of Annex III to the Staff Regulations of Officials is unlawful;
- Order the defendant to pay the costs.

**Pleas in law and main arguments**

In support of her claim, the applicant raises three pleas in law, the first of which alleges infringement of the principle of equality and non-discrimination. In the first part of that plea, the applicant alleges that she was the subject of discrimination by reason of nationality, contrary inter alia to Article 27 of the Staff Regulations. After having supplied evidence of her Belgian nationality, she was requested to prove her Romanian nationality. In the second part, she argues that the selection board discriminated against candidates who, like her, did not already work for the institutions as temporary or contractual agents.

In her second plea, the applicant alleges infringement of the provisions of the notice of competition and of the principle of sound administration. Firstly, during her test, she was asked to speak about her professional experience even though no professional experience was required of candidates who, like her, held a university degree in conference interpreting. Secondly, the selection board established and applied pass quotas based on the linguistic combinations chosen by the candidates without such a possibility being provided for in the notice of competition.

In her third plea, the applicant alleges infringement of the duty to give reasons.

**Action brought on 10 April 2007 — Alberto Toronjo Benitez v Commission of the European Communities****(Case F-33/07)**

(2007/C 129/45)

*Language of the case: French***Parties***Applicant:* Alberto Toronjo Benitez (Brussels, Belgium) (represented by: S. Orlandi, J.-N. Louis, A. Coolen and E. Marchal, lawyers)*Defendant:* Commission of the European Communities**Form of order sought**

- Declare the unlawfulness of Article 2 of the Commission's decision on the promotion procedure for officials whose remuneration falls under the 'Research' credits of the general budget (both in the version of 16 June 2004 and that of 20 July 2005) ('the first contested decision');
- Annul the Commission's decision to remove the 44.5 points from the applicant's balance which he had accumulated as a temporary agent ('the second contested decision');
- Order the defendant to pay the costs.

**Pleas in law and main arguments**

The applicant, who took up his post at the Commission on 16 January 2000 as a temporary agent in the 'Research' Directorate-General ('DG'), was appointed as an official in the same DG with effect from 16 April 2004. On 1 May 2005 he was transferred to DG 'Relex'. By letter of 16 June 2006, he was informed that the points which he had acquired as a temporary agent had been annulled, by application of the first contested decision, since he had moved to a post falling under the 'Operational' part of the general budget before two years had expired following his recruitment as a probationary official to a post falling under the 'Research' part of that budget.

In support of his action, the applicant relies first on infringement of the principles of legal certainty, administrative legality and protection of acquired rights, since the withdrawal by the Appointing Authority (AIPN) of an unlawful decision constituting subjective rights should have taken place within a reasonable time, which is not the case in respect of the second contested decision.