



Publication in three languages of notices of EU competitions and the obligation to take the selection tests in one of those languages amount to discrimination on the ground of language

The limitation of the choice of the second language of a competition must be based on clear, objective and foreseeable criteria

In February and March 2007, the agency EPSO¹, responsible for the recruitment procedures for EU officials, published notices of competitions for administrators and assistants in the field of information, communication and the media². Those notices were *published* in English, French and German in the Official Journal of the European Union ('OJ'). With regard to the admission to and the taking of the *admission tests*, a thorough knowledge of one of the official languages of the EU as the main language and a satisfactory knowledge of English, French or German as the second – different – language were required. In addition, it was stipulated that only English, French or German were to be used for *the invitations to the tests, the correspondence* between EPSO and the candidates and the admission tests. The same conditions were stipulated in relation to *the admission to the written tests* and for *the taking* of those tests³.

In June and July 2007, EPSO published two amendments in the OJ, in all the language versions, referring back expressly to the full version of the notices already published in English, French and German, and laying down new closing dates for the submission of applications.

Italy brought proceedings before the General Court seeking annulment of those notices⁴. It contested in essence the lack of full publication of the notices in the official languages other than English, French and German and the arbitrary limitation of the choice of the second language to only three languages for participation in the competitions, communication with EPSO and the taking of the tests.

Since the General Court dismissed those actions⁵, Italy appealed to the Court of Justice, claiming that the General Court, by upholding the validity of the notices, had erred in law.

In its judgment of today's date, the Court examines, first, the lack of full publication of the notices in all the official languages. It notes that the language rules of the EU provide that **the official and working languages of the institutions of the EU are the 23 current languages** of the EU⁶, that

¹ European Personnel Selection Office, established by Decision 2002/620/EC of the European Parliament, the Council, the Commission, the Court of Justice, the Court of Auditors, the Economic and Social Committee, the Committee of the Regions and the European Ombudsman of 25 July 2002 (OJ 2002 L 197, p. 53).

² The competitions concerned are EPSO/AD/94/07, EPSO/AST/37 and EPSO/AD/95/07.

³ Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ, English Special Edition 1952-1958, p. 59).

⁴ Any proceedings in the areas covered by Decision 2002/620/EC are to be instituted against the Commission.

⁵ Judgment of the General Court in Joined Cases T-166/07 and T-285/07.

⁶ Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish.

the OJ must appear in all the official languages and that, according to the Staff Regulations of Officials of the European Union, a notice of open competition must be published in the OJ⁷.

Therefore, the combination of those rules leads to the conclusion that **the contested notices should have been published in full in all the official languages**. Since those provisions did not provide for any exceptions, the General Court erred in law by holding that the later publication of the amendments had remedied the lack of full publication.

In any event, proceeding on the assumption that citizens of the EU read the OJ in their mother tongue and that that language is one of the official languages, a potential candidate whose mother tongue was not one of the three languages of full publication of the notice would have had to obtain the OJ in one of those languages and to read it in that language before deciding to make an application. Such a candidate was therefore placed at a disadvantage compared to a candidate whose mother tongue was English, French or German, with regard both to the correct understanding of the notices and the time-limit within which to prepare and submit his application.

Second, the Court examines the limitation of the choice of the second language for participation in a competition. It holds that such a limitation may be justified in the interest of the service. **According to the Court, rules limiting the choice of the second language must provide for clear, objective and foreseeable criteria** to enable candidates to know sufficiently in advance the language knowledge required and to be able to prepare for the competition in the best possible circumstances.

However, the institutions concerned by the competitions never adopted rules of procedure stipulating which of the languages were to be used in specific cases for their internal functioning. The Commission also failed to point to other measures, such as communications, laying down criteria for a limitation of the choice of a language as second language for participation in competitions. Finally, the contested notices did not contain any reasoning substantiating the choice of the three languages used.

To enable the institutions to secure the best candidates (in terms of ability, efficiency and integrity) **it would be preferable to allow candidates to sit the selection tests in their mother tongue or in the language of which they have the best command**. Moreover, knowledge of languages is an essential element of the career of officials and the institutions can check the efforts made by officials to put their knowledge into practice and, possibly, to improve that knowledge. It is therefore for the institutions to weigh, on the one hand, the limitation of the number of languages of the competitions against, on the other hand, the objective of identifying the most competent candidates and the opportunities for recruited officials of learning the languages necessary in the interest of the service.

Consequently, the Court sets aside the judgment of the General Court. Giving final judgment on the case, it also annuls the notices of open competitions. By contrast, in order to respect the legitimate expectations of the selected candidates, the results of the competitions are not to be called into question.

NOTE: An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

⁷ Staff Regulations of Officials of the European Communities, as amended by Council Regulation (EC, Euratom) No 723/2004 of 22 March 2004 (OJ 2004 L 124, p. 1).

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