Reports of Cases

JUDGMENT OF THE COURT (Grand Chamber)

27 November 2012*

(Appeal — Rules on languages — Notices of open competitions for the recruitment of administrators and assistants — Publication in full in three official languages — Language of the tests — Choice of the second language among three official languages)

In Case C-566/10 P,

APPEAL under Article 56 of the Statute of the Court of Justice of the European Union, brought on 2 December 2010,

**Italian Republic,** represented by G. Palmieri, acting as Agent, assisted by P. Gentili, avvocato dello Stato, acting as Agent, with an address for service in Luxembourg,

appellant,

the other parties to the proceedings being:

**European Commission,** represented by J. Currall and J. Baquero Cruz, acting as Agents, assisted by A. Dal Ferro, avvocato, with an address for service in Luxembourg,

defendant at first instance,

**Republic of Lithuania,**

**Hellenic Republic,** represented by A. Samoni-Rantou, S. Vodina and G. Papagianni, acting as Agents, with an address for service in Luxembourg,

interveners at first instance,

THE COURT (Grand Chamber),

composed of V. Skouris, President, K. Lenaerts, Vice-President, A. Tizzano, M. Ilešič, A. Rosas (Rapporteur), G. Arestis and J. Malenovský, Presidents of Chambers, A. Borg Barthet, U. Lõhmus, J.-C. Bonichot and A. Arabadjiev, C. Toader, J.-J. Kasel, M. Safjan and D. Šváby, Judges,

Advocate General: J. Kokott,

Registrar: A. Impellizzeri, Administrator,

having regard to the written procedure and further to the hearing on 6 June 2012,

after hearing the Opinion of the Advocate General at the sitting on 21 June 2012,

* Language of the case: Italian.

gives the following

## Judgment

1 By its appeal, the Italian Republic seeks to have set aside the judgment of the General Court of the European Union of 13 September 2010 in Joined Cases T-166/07 and T-285/07 ('the judgment under appeal') by which the General Court dismissed the actions brought by the Italian Republic seeking annulment of the notices of open competitions EPSO/AD/94/07 to constitute a reserve pool of Administrators (AD 5) in the field of information, communication and the media (OJ 2007 C 45 A, p. 3), EPSO/AST/37/07 to constitute a reserve pool of Assistants (AST 3) in the field of communication and information (OJ 2007 C 45 A, p. 15) and EPSO/AD/95/07 to constitute a reserve pool of Administrators (AD 5) in the field of information science (library/documentation) (OJ 2007 C 103 A, p. 7).

## Legal context

2 Articles 1 to 6 of 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), as amended by Council Regulation (EC) No 1791/2006 of 20 November 2006 (OJ 2006 L 363, p. 1; 'Regulation No 1') provides:

*'Article 1*

The official languages and the working languages of the institutions of the European Union shall be Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish.

*Article 2*

Documents which a Member State or a person subject to the jurisdiction of a Member State sends to institutions of the [European Union] may be drafted in any one of the official languages selected by the sender. The reply shall be drafted in the same language.

*Article 3*

Documents which an institution of the [European Union] sends to a Member State or to a person subject to the jurisdiction of a Member State shall be drafted in the language of such State.

*Article 4*

Regulations and other documents of general application shall be drafted in the official languages.

*Article 5*

The *Official Journal of the European Union* shall be published in the official languages.

*Article 6*

The institutions of the [European Union] may stipulate in their rules of procedure which of the languages are to be used in specific cases.'

3 Article 1d, the first subparagraph of Article 7(1), Articles 24a, 27, 28, 29(1) and 45 of the Staff Regulations of Officials of the European Communities, as amended by Council Regulation (EC, Euratom) No 723/2004 of 22 March 2004 (OJ L 124, p. 1; 'the Staff Regulations') state:

*'Article 1d*

(1) In the application of these Staff Regulations, any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation shall be prohibited.

…

(6) While respecting the principle of non-discrimination and the principle of proportionality, any limitation of their application must be justified on objective and reasonable grounds and must be aimed at legitimate objectives in the general interest in the framework of staff policy. Such objectives may in particular justify stipulating a mandatory retirement age and a minimum age for drawing a retirement pension.

*Article 7*

1. The Appointing Authority shall, acting solely in the interest of the service and without regard to nationality, assign each official by appointment or transfer to a post in his function group which corresponds to his grade.

…

*Article 24a*

The Communities shall facilitate such further training and instruction for officials as is compatible with the proper functioning of the service and is in accordance with its own interests.

Such training and instruction shall be taken into account for purposes of promotion in their careers.

*Article 27*

Recruitment shall be directed to securing for the institution the services of officials of the highest standard of ability, efficiency and integrity, recruited on the broadest possible geographical basis from among nationals of Member States of the Communities.

No posts shall be reserved for nationals of any specific Member State.

*Article 28*

An official may be appointed only on condition that:

[…]

(f) he produces evidence of a thorough knowledge of one of the languages of the Communities and of a satisfactory knowledge of another language of the Communities to the extent necessary for the performance of his duties.

*Article 29*

1. 'Before filling a vacant post in an institution, the appointing authority shall ...

…

and then follow the procedure for competitions on the basis either of qualifications or of tests or of both qualifications and tests. Annex III lays down the competition procedure.

The procedure may likewise be followed for the purpose of constituting a reserve for future recruitment.

…

*Article 45*

1. 'Promotion shall be by decision of the appointing authority in the light of Article 6(2). It shall be effected by appointment of the official to the next higher grade in the function group to which he belongs. Promotion shall be exclusively by selection from among officials who have completed a minimum of two years in their grade after consideration of the comparative merits of the officials eligible for promotion. When considering comparative merits, the appointing authority shall in particular take account of the reports on the officials, the use of languages in the execution of their duties other than the language for which they have produced evidence of thorough knowledge in accordance with Article 28(f) and, where appropriate, the level of responsibilities exercised by them.

2. Officials shall be required to demonstrate before their first promotion after recruitment the ability to work in a third language among those referred to in Article 314 of the EC Treaty. The institutions shall adopt common rules by agreement between them for implementing this paragraph. These rules shall require access to training for officials in a third language and lay down the detailed arrangements for the assessment of officials' ability to work in a third language, in accordance with Article 7(2)(d) of Annex III.'

4 Articles 1(1) and (2) and 7 of Annex III to the Staff Regulations states as follows:

*'Article 1*

(1) Notice of competitions shall be drawn up by the appointing authority after consulting the Joint Committee.

It must specify:

(a) the nature of the competition (competition internal to the institution, competition internal to the institutions, open competition, where appropriate, common to two or more institutions);

(b) the kind of competition (whether on the basis of either qualifications or tests, or of both qualifications and tests);

(c) the type of duties and tasks involved in the post to be filled and the function group and grade offered;

(d) in accordance with Article 5(3) of the Staff Regulations, the diplomas and other evidence of formal qualifications or the degree of experience required for the post to be filled;

(e) where the competition is on the basis of tests, what kind they will be and how they will be marked;

(f) where applicable, the knowledge of languages required in view of the special nature of the posts to be filled;

(g) where appropriate, the age limit and any extension of the age limit in the case of servants of the Communities who have completed not less than one year's service;

(h) the closing date for applications;

(i) any exceptions pursuant to Article 28(a) of the Staff Regulations.

Notice of open competitions common to two or more institutions shall be drawn up by the appointing authority referred to in Article 2(2) of the Staff Regulations, after consulting the common Joint Committee.

(2) Notice of open competitions shall be published in the *Official Journal of the European Communities* not less than one month before the closing date for applications and, where applicable, not less than two months before the date of the tests.

(3) All competitions shall be advertised within the institutions of the three European Communities, the same time-limits being observed.

*Article 7*

1. The institutions shall, after consultation of the Staff Regulations Committee, entrust the European Communities Personnel Selection Office ["EPSO"] with responsibility for taking the necessary measures to ensure that uniform standards are applied in the selection procedures for officials of the Communities and in the assessment and in the examination procedures referred to in Articles 45 and 45a of the Staff Regulations.

2. [EPSO's] task shall be to:

(a) organise, at the request of individual institutions, open competitions;

…

(d) assume general responsibility for the definition and organisation of the assessment of linguistic ability in order to ensure that the requirements of Article 45(2) of the Staff Regulations are met in a harmonised and consistent manner.

…'

5 EPSO was created 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). According to the first sentence of Article 2(1) of that decision, EPSO is to exercise the powers of selection conferred under, inter alia, Annex III to the Staff Regulations on the appointing authorities of the institutions signing that decision. The last sentence of Article 4 of Decision 2002/620/EC provides that any appeal in the areas referred to in that decision is to be made against the Commission.

6 EPSO's role was clarified by Article 7 to Annex III to the Staff Regulations, added by Regulation No 723/2004.

## Background to the dispute

7 On 28 February 2007, EPSO published notices of open competition EPSO/AD/94/07 and EPSO/AST/37/07 only in the English, French and German editions of the *Official Journal of the European Union* in order to establish, first, a reserve list to fill vacant posts within the institutions for administrators (AD 5) in the field of information, communication and the media and, second, a reserve list in order to fill vacant posts within the institutions for assistants (AST 3) in the field of communication and information.

8 On 8 May 2007, EPSO published a notice of open competition EPSO/AD/95/07 only in the English, French and German editions of the *Official Journal.of the European Union*, in order to establish a reserve list to fill vacant posts, in particular at the European Parliament, for administrators (AD5) in the field of information science (library/documentation).

9 In Section I.A. of each of the abovementioned notices of open competition ('the contested competition notices'), governing eligibility for the admission tests, it was stated, under the heading 'Knowledge of languages', that candidates were obliged to have a thorough knowledge of one of the official languages of the European Union ('the official languages') as the main language and a satisfactory knowledge of English, French or German as the second language, which had to be different from the main language. It was also stipulated under the same heading that, to ensure that all general texts and all communication between EPSO and the candidates would be clearly understood, only English, French or German would be used for the invitations to the various tests and all correspondence between EPSO or the secretariat of the selection board and the candidates. Section I.B of the contested competition notices stated, in addition, that the admission tests would be taken 'in English, French or German ([second] language …)'.

10 In section II.A. of the contested competition notices, regarding duties and eligibility for the competitions, it was stated, under the heading 'Languages', that in order to be admitted to the written tests, the candidates had to have a thorough knowledge of one of the official languages as the main language and a satisfactory knowledge of English, French or German as the second language, which had to be different from the main language. Section II.B of the contested competition notices stipulated in addition that the written tests were to be taken 'in English, French or German ([second] language …)'.

11 On 20 June and 13 July 2007, EPSO published two amendments to the contested competition notices in all the language versions of the *Official Journal of the European Union* (OJ 2007 C 136 A, p. 1 and OJ 2007 C 160, p. 14). In the amendment published on 20 June 2007, it was stated that candidates had to hold, for the competition EPSO/AD/94/07, either a university degree of three years in length in the field concerned, that is to say, information, communication and the media, or a university degree of three years in length in any other field, followed by at least three years' professional experience in a field relevant to the duties concerned. It was also laid down, for competition EPSO/AST/37/07, that, depending on the type of qualifications candidates possessed, professional experience of three or six years was required. In the amendment published on 13 July 2007, it was stated that the candidates had to hold, for competition EPSO/AD/95/07, a three-year university degree qualification in the field of information science (library/documentation) or have completed a three-year university course followed by a specialist qualification in that field, no professional experience being required. Moreover, the two amendments referred back expressly to the full versions of the Official Journal published in the English, French and German editions and laid down a new closing date for submission of applications for the competitions in question.

**The actions before the General Court and the judgment under appeal**

12 By application lodged at the Registry of the General Court on 8 May 2007, the Italian Republic brought an action for annulment of the notices of competition EPSO/AD/94/07 and EPSO/AST/37/07. The Republic of Lithuania intervened in support of the form of order sought by the Italian Republic in that case, registered as number T-166/07.

13 By application lodged at the Registry of the General Court on 18 July 2007, the Italian Republic brought an action for annulment of the notice of competition EPSO/AD/95/07. The Hellenic Republic intervened in support of the form of order sought by the Italian Republic in that case, registered as number T-285/07.

14 Cases T-166/07 and T-285/07 were joined by order of 9 November 2009 for the purposes of the oral procedure and of the judgment.

15 The Italian Republic complained, in essence, first, that the contested competition notices had not been published in full in the *Official Journal of the European Union* in the official languages other than English, French and German and, second, that the choice of the second language for participation in the competition had been arbitrarily limited to only three languages, in relation to all communication with EPSO and the taking of the tests.

16 After rejecting the Commission's claim that there was no need to adjudicate on the matter, the General Court examined, first, the plea alleging infringement of Article 290 EC and, second, that alleging infringement of Articles 1, 4, 5 and 6 of Regulation No 1. Third, it ruled on the plea alleging infringement of the principles of non-discrimination, proportionality and multilingualism. That plea, split into two parts, concerned, as to the first part, the compatibility with those three principles of the publication in full in the *Official Journal of the European Union* of the contested competition notices in English, French and German only. The second part of that plea concerned the compatibility with those principles of the choice of the second language from the three languages laid down for participation in the competitions in question, in relation to all communication with EPSO and the taking of the tests. Fourth, the General Court examined the plea alleging infringement of the principle of the protection of legitimate expectations in order to establish whether the publication in the *Official Journal of the European Union* of the contested competition notices runs counter to that principle, to the extent that it is at odds with the settled practice followed until July 2005 of drafting and publishing competition notices in full in the *Official Journal of the European Union* in all the official languages. Finally, the General Court examined the pleas alleging the failure to state reasons in the contested competition notices and abuse of power.

17 The General Court rejected each of those pleas and, consequently, the actions for annulment.

**Forms of order sought by parties to the appeal**

18 The Italian Republic claims that the Court should:

— set aside the judgment under appeal;

— itself rule on the dispute and set aside the [contested] notices;

— order the Commission to pay the costs.

19 The Commission contends that the Court should:

— dismiss the appeal;

— order the Italian Republic to pay the costs.

20 The Hellenic Republic claims that the Court should grant the application in the response seeking to have set aside the judgment delivered by the General Court on 13 September 2010 in Joined Cases T-166/07 and T-285/07.

21 The Republic of Lithuania did not lodge a response.

## Consideration of the appeal

22 The appeal is based on seven grounds.

*Arguments of the parties*

The first ground of appeal

23 The first ground of appeal alleges infringement of Article 290 EC and Article 6 of Regulation No 1.

24 It refers to paragraphs 41 and 42 of the judgment under appeal, in which the General Court held that the contested competition notices did not infringe Article 290 EC in so far as they were adopted by the Commission on the basis of power conferred on the institutions and on Community bodies by Article 6 of Regulation No 1 which expressly permits the institutions to lay down in their rules of procedure which of the languages are to be used in specific cases. With reference, inter alia, to point 48 of the Opinion of the Advocate General in Case C-160/03 *Spain* v *Eurojust* [2005] ECR I-2077 and the case-law cited, the General Court held in the abovementioned paragraphs that the institutions should be granted a certain operational autonomy when exercising the power conferred on them by Article 6 of Regulation No 1, in order to ensure their proper functioning.

25 The Italian Republic argues that the General Court infringed Article 290 EC and Article 6 of Regulation No 1 by acknowledging the Commission's power to adopt the contested notices, when, first, no rules of procedure were ever adopted by the Commission with regard to the specific implementation of Regulation No 1, second, a competition notice is not a rule of procedure and, third, the Commission, through EPSO, assumed the Council's role by purporting to adopt, by means of a simple administrative measure, rules on which languages are to be used in an important field such as that of competitions for admission to careers in the European Union administration.

26 The Hellenic Republic, referring to the judgment of the Civil Service Tribunal of the European Union of 15 June 2010 in Case F-35/08, *Pachtitis* v *Commission* – a judgment which, when the Hellenic Republic's response was lodged, was the subject of an appeal by the Commission, dismissed by judgment of the General Court of 14 December 2011 in Case T-361/10 P *Commission* v *Pachitis* [2011] ECR II-8225 – states that EPSO has no power to determine the language of a competition, not only because that amounts to determining the language rules of an institution – when that is a matter for the Council – but also to the extent that languages are the 'content of the tests', and form part of the knowledge that it is for the competition selection board to assess. It questions the existence of 'operational autonomy', as referred to in paragraph 41 of the judgment under appeal, based on Article 6 of Regulation No 1 and which the General Court acknowledged is enjoyed by the institutions. It concludes that the regulation is employed in order to avoid the unanimity required by Article 290 EC.

27 The Commission considers that the General Court did not err in law. It states that granting the institutions a certain operational autonomy is a requirement which results from the case-law of the Court of Justice. Thus, the General Court was right to hold that competition notices are an

expression of that power of self-administration. The fact that the Commission has not adopted rules of procedure within the meaning of Article 6 of Regulation No 1 is not relevant, since that provision is merely an expression of a broader power of self-administration.

The second ground of appeal

28 The second ground of appeal alleges infringement of Articles 1, 4, 5 and 6 of Regulation No 1.

29 It refers to paragraphs 52 to 57 of the judgment under appeal. In paragraph 52 of the judgment, the General Court, referring to, inter alia, paragraph 60 of Case T-203/03 *Rasmussen* v *Commission* [2005] ECR-SC I-A 279 and II-1287, drew attention to settled case-law according to which 'Regulation No 1 does not apply to the relationship between the institutions and their officials and other servants since it lays down only the language rules applying between the institutions and a Member State or a person coming under the jurisdiction of one of the Member States'. In paragraph 53 of the judgment appealed against, which refers to, inter alia, paragraph 13 of Case T-118/99 *Bonaiti Brighina* v *Commission* [2001] ECR-SC I-A 25 and II-97, the General Court held that 'officials and other servants of the Communities, and candidates for such posts, fall solely within the jurisdiction of the Communities' and that, in addition, 'Article 6 of Regulation No 1 expressly allows institutions to stipulate in their rules of procedure which of the languages are to be used in specific cases'. In paragraph 54 of the judgment appealed against, it justified applying the same language rules to candidates for posts of officials and other servants of the Communities as to officials and other servants themselves by 'the fact that such candidates enter into a relationship with an institution solely in order to obtain a post of official or other servant for which certain knowledge of languages is necessary and may be required by the Community provisions applying in respect of appointment to the post concerned'. It concluded, in paragraphs 55 and 56 of that judgment, that 'Articles 1, 4 and 5 of Regulation No 1 do not apply to the contested notices of competition' and that 'the choice of the language of external publication of a notice falls … within the jurisdiction of the institutions'.

30 The Italian Republic again refers to the fact that no rules of procedure were adopted by the Commission under Article 6 of Regulation No 1. It also maintains that a competition notice is a text of general application within the meaning of Article 4 of Regulation No 1, since it may be of interest to all Community nationals and, in any event, the notice is the particular law of the competition. That is confirmed by Article 1(2) of Annex III to the Staff Regulations, which requires competition notices to be published in the *Official Journal of the European Communities*. Lastly, that Member State does not agree that the same language rules should apply to candidates for posts as to officials and other servants, noting that a candidate is a citizen of the Union who has a fundamental individual right based on public law to seek employment in the civil service of the European Union and who, when he applies to participate in a competition to enter an institution, necessarily does not belong to that institution.

31 The Hellenic Republic argues that there is a contradiction between paragraphs 41 and 42 of the judgment under appeal, in which the General Court held that the competition notices were adopted on the basis of the power granted to the institutions by Article 6 of Regulation No 1, and paragraphs 52 to 58 of the judgment, in which it rejected the plea alleging infringement of Articles 1 and 4 to 6 of Regulation No 1, on the ground that the regulation is not applicable to the relationship between the European Union institutions and their officials. According to the Hellenic Republic, either Regulation No 1 is applicable and, in that case, Article 6 thereof is relevant, or it is not. It also argues that paragraph 60 of the judgment in *Rasmussen* is a mere assertion which is not substantiated and which, by being repeated, has become settled case-law.

32 The Commission considers that the General Court did not err in law, in particular as regards treating candidates for a competition in the same way as officials in service. Such a principle also features in the case-law of the Court of Justice in order to justify the application of the Staff Regulation procedures to

persons who aspire to that status. In addition, a competition notice defines the rules applicable to persons who apply for posts, rules which express the interest of the service alone and therefore only the institution's internal needs. Such a notice cannot therefore amount to a document of general application.

33 The Commission states that Annex III to the Staff Regulations lays down obligations for the purpose of guaranteeing equal access to information and does not express formal language requirements with regard to the 'external' situation, that is to say, the relationship between the institutions and the outside world.

The third ground of appeal

34 The third ground of appeal law alleges infringement of the principles of non-discrimination, proportionality and multilingualism and, in particular, infringement of Article 12 EC, Article 22 of the Charter of Fundamental Rights of the European Union ('the Charter'), Article 6(3) EU, Article 5 of Regulation No 1, Article 1(2) and (3) of Annex III to the Staff Regulations, and finally, Article 230 EC.

35 It concerns paragraphs 72 to 91 of the judgment under appeal, in which the General Court ruled on the first part of a plea concerning publication in the *Official Journal of the European Union* in English, French and German of the contested competition notices and, in that journal, in all the official languages, of amendments to those competition notices.

36 In paragraph 72 of the judgment under appeal, the General Court stated 'that there is no provision or principle of Community law requiring that competition notices should routinely be published in the Official Journal in all the official languages'. It however noted, in paragraph 74 of that judgment that 'although the administration is entitled to adopt measures which appear to it to be appropriate in order to govern certain aspects of the procedure for recruiting staff, those measures must not result in discrimination on the ground of language between the candidates for a specific post'. In paragraph 84 of the judgment under appeal, the General Court held that 'the contested competition notices were published in full only in English, French and German'. It considered, however, in paragraph 85 of the same judgment, that the two amendments published in the *Official Journal of the European Union* in all the official languages, informing the public in summary form of the existence and the content of the contested competition notices and referring back to the English, French and German versions in order to obtain the full version, 'remedied the lack of publication in the Official Journal of the contested competition notices in all the official languages'. The General Court therefore concluded, in paragraph 90 of the judgment under appeal, that 'the publication, in full, in the Official Journal, of the contested competition notices in only three languages, followed by a summary publication in the Official Journal, in all the official languages, of the amendments to those notices, does not amount to discrimination on the ground of language between candidates contrary to Article 12 EC, [that] it also does not constitute an infringement of Article 6(3) EU, which states only that the Union is to respect the national identities of its Member States, [and that] it does not infringe Article 22 of the Charter, which moreover lacks binding legal force'.

37 The Italian Republic argues that, by taking into consideration the amendments to the competition notices, the General Court infringed Article 230 EC, because the lawfulness of a measure must be assessed by taking into consideration its wording at the moment when it was adopted. It also maintains that, in any event, the publication of the amendments did not make it possible to remedy the lack of publication of the notices in all the official languages.

38 According to the Italian Republic, the General Court's reasoning is tautologous in that it assumes knowledge of three languages on the ground that the notices refer to those three languages only. However, it is in fact necessary to justify the limitation to three languages and the resulting discrimination.

39 The Hellenic Republic also maintains that the competition notices should have been published in all the official languages and does not agree that the publication of the amendments remedied the initial failure.

40 The Commission states that the arguments made in the context of this ground of appeal do not call into question the General Court's reasoning in paragraphs 72, 73 to 76 or 79 to 81 of the judgment under appeal, which in its view offered sufficient grounds for the operative part of that judgment. In any event, the competition notice had to state the requirements dictated by the interest of the service so as to avoid pointless applications being submitted by unqualified persons. It submits that the General Court provided appropriate reasoning for the conclusion it reached, that the institution is obliged, not to publish the competition notices in full in all the official languages, but to ensure that the method of publication selected does not discriminate between candidates.

The fourth ground of appeal

41 The fourth ground of appeal alleges infringement of the rules relating to non-discrimination on the ground of language, of Articles 1 and 6 of Regulation No 1 and of Article 1d(1) and (6), the second paragraph of Article 27 and Article 28(f) of the Staff Regulations.

42 It concerns paragraphs 93 to 105 of the judgment under appeal, in which the General Court ruled on part of a plea concerning the choice of the second language among three languages in order to participate in the competitions in question, for all communication with EPSO and for the taking of the tests and held, in paragraph 105, that the plea alleging infringement of the principles of non-discrimination, proportionality should be rejected in its entirety.

43 Relying on the Opinion of the Advocate General in the case which led to the judgment in *Spain* v *Eurojust*, the General Court noted, in paragraph 93 of the judgment under appeal, 'that the sound functioning of the institutions and the Community bodies may objectively justify a limited choice of languages of internal communication'. In paragraph 94 of the judgment under appeal, it also stated that the choice of one or more official languages on an internal level cannot undermine equal access by citizens of the Union to posts offered by the institutions or Community bodies. It nevertheless noted, in paragraph 95 of the judgment under appeal, 'that every candidate for the competitions in question with the language skills required by the contested competition notices was eligible for and could participate in, under the same conditions, the recruitment procedures'. In paragraph 99 of the judgment under appeal, the General Court stated that 'the Italian Republic did not adduce any specific evidence such as to call into question the appropriateness of the language skills required by the contested competition notices [and that] consequently it could not claim that that requirement was not an objective requirement in view of the needs of the service'. It also stated in that paragraph that the failure to publish information at the outset in all the official languages did not disadvantage candidates whose main language was not English, French or German because the two amendments subsequently published reopened the period allowed for the submission of applications for the competitions in question. Finally, in paragraph 101 of the judgment under appeal, the General Court held that, while the areas covered by the contested notices of appeal require a wide range of language skills, the fact that the main language – a thorough knowledge of which is required by those notices – may be any official language, is sufficient to guarantee a wide range of language skills in the recruitment of candidates replying to those notices.

44 By this ground of appeal, the Italian Republic argues that the decision to accept only three official languages as the second language, for all communication with EPSO and for the taking of the tests, amounts to discrimination on the ground of language, first with regard to the other languages which are not accepted as the second language but also with regard to the nationals of the Member States who have a second official language other than the three languages accepted. It argues that the right,

enjoyed by the institutions, to stipulate in their rules of procedure which of the languages are to be used in specific cases concerns only the internal functioning of the institutions and not the conduct of external competitions and that, in any event, no institution has adopted rules in that regard.

45 That Member State submits in addition that, having regard to the principle that it is forbidden that posts should be reserved for nationals of any specific Member State, laid down in the second paragraph of Article 27 of the Staff Regulations, the restrictions on the use of languages within the institutions must be considered as exceptions that require to be duly justified. In addition, Article 28 of the Staff Regulations makes it clear that the second language may be chosen from among any European Union language and does not envisage a privileged position for any of them in that regard. That Member State infers from this that the languages selected must be the most neutral possible in relation to the qualifications sought, which presupposes that all European Union languages are allowed. According to the Italian Republic, a correct interpretation of Article 28(f) of the Staff Regulations must lead to the conclusion that, in order to be effective and non-discriminatory, the assessment of the professional qualifications necessary in order to be selected must not be decisively influenced by the candidate's knowledge of languages. That interpretation is confirmed by Article 1 of Annex III to the Staff Regulations, according to which the competition notice must specify, where applicable, the knowledge of languages required in view of the special nature of the posts to be filled. The limitations which that provision lays down are not mere options. Reasons must be given for them in the notice and they must be based on what is 'necessary for the performance of the duties' to be carried out and on 'the special nature of the posts to be filled'. The competition notices did not, however, comply with those rules.

46 The Italian Republic disputes the assertion made by the General Court, in paragraphs 98 and 99 of the judgment under appeal, that the Italian Republic had failed to show that the choice of the three languages as languages for taking the tests was inappropriate in the light of the purpose of the competitions in question. It maintains that the burden of proof does not fall on it but on the Commission, because that institution relies on an exception to the rules according to which all Community languages are official languages and working languages.

47 The Italian Republic does not deny the importance of the internal organisational needs or, indeed, of the practices of the institutions. It considers, however that when that factor is so important as to take the form of limitations on the languages that can be used by European citizens, it must be relied upon in the context of transparent and appropriate rules. The institutions must specify the nature of the needs that may lead to language restrictions, not only within the institutions but even more so in the competitions for admission – which are not a merely internal matter for the institutions – and the procedures by which such limitations may be imposed. According to that Member State, the exercise of discretion based only on the importance – without knowing at what level or according to what criteria – of supposed practices is not acceptable.

48 The Commission emphasises that the Italian Republic does not deny that there is an objective need on the part of the institutions that justifies the limitation of choice of the second language of the competition to three particular official languages. It notes, in addition, that those needs are acknowledged by the case-law (Case T-376/03 *Hendrickx* v *Council* [2005] ECR-SC I-83 and II-379). It argues, finally, that the General Court's finding, in paragraph 95 of the judgment under appeal, that 'every candidate for the competitions in question with the language skills required by the contested competition notices was eligible for and could participate in, under the same conditions, the recruitment procedures', is a finding of fact which is not for the Court of Justice to review in the context of an appeal.

The fifth ground of appeal

49 The fifth ground of appeal law alleges infringement of Article 6(3) EU, in so far as that article lays down the principle of protection of legitimate expectations as a fundamental right as it results from the constitutional traditions common to the Member States.

50 It concerns paragraphs 110 to 115 of the judgment under appeal, in which the General Court rejected the plea alleging infringement of that principle. The General Court held in particular, in paragraph 110 of that judgment, that 'that principle may not be relied upon by a person unless he has received precise assurances from the administration' and, in paragraph 112 of the judgment under appeal 'that a mere practice … is not equivalent to precise, unconditional and convergent information' within the meaning of the case-law.

51 The Italian Republic submits that, by denying the existence of legitimate expectations on the ground that no assurance was given, without taking into account the full significance of the decades-old practice found to exist by the General Court itself, the latter infringed the principle of protection of legitimate expectations. The change of orientation, without warning or justification, in favour of trilingualism, may have discriminated against those who reasonably envisaged gaining admission to European careers on the basis of different language skills which were perfectly accepted until then.

52 The Commission contends that the General Court did not err in law in that regard.

The sixth ground of appeal

53 The sixth ground of appeal alleges infringement of Article 253 EC, concerning the obligation to state the reasons for an act.

54 It concerns paragraphs 125 and 126 of the judgment under appeal. In paragraph 125 of that judgment, the General Court noted that 'the essential function of the competition notice is to inform the persons concerned in as precise a way as possible of the nature of the conditions required to fill the post in question, in order to enable them to judge, first, whether they should apply and, second, what supporting documents are required by the selection board and must, consequently, be attached to the application'. In paragraph 126 of that judgment, the General Court held that 'it was not for the administration to justify, in the contested notices of competition, the choice of the three languages to use as a second language in order to be able to participate in the competitions and the tests, since it was agreed that [that choice] satisfies those internal requirements'.

55 The Italian Republic submits that the General Court confused the function of the competition notices with their reasoning. The competition notices gave effect to the possible language restrictions allowed by the Staff Regulations and ought, therefore, to have stated the precise functional link between the nature of the tasks to be accomplished or the needs of the service and the language restrictions introduced in the selection procedure. The complete silence as to the existence or nature of the alleged 'internal needs' does not allow the Commission's choice to be reviewed by the court or by the addressees of the measure. The General Court erred in law by considering that the reasoning concerning the needs of the service could be derived from the presence, in the notice, of restrictive provisions.

56 The Commission notes that the need to provide reasons depends on the nature and purpose of the measure in question. In the present case, the measures concerned were not binding acts but merely information measures, that is to say, invitations to participate in competitions. It takes the view that the General Court was clearly justified in its finding, in paragraph 126 of the judgment under appeal, that there was no requirement to provide reasons for the choice of the three languages to be used.

The seventh ground of appeal

57 The seventh ground of appeal alleges infringement of the substantive rules concerning the nature and purpose of the competition notices and, in particular, Article 1d(1) and (6), Article 28(f) and the second paragraph of Article 27 of the Staff Regulations.

58 It concerns paragraphs 128 to 135 of the judgment under appeal, in which the General Court held inter alia that EPSO had not committed an abuse of power because it did not use the language rules of the competitions for purposes unrelated to its powers. The Italian Republic contests paragraph 133 of the judgment under appeal, in which the General Court stated that 'the selection board is bound by the notice of competition and, in particular, by the conditions of admission laid down by it', and paragraph 134 of that judgment, in which the General Court held that 'EPSO cannot be criticised for having defined, in the contested competition notices, language rules which, as eligibility criteria, may exclude certain potential candidates and, in particular, for having resorted to a publication method which precludes, in practice, participation in the competitions in question by interested persons in so far as they do not satisfy those language requirements'.

59 According to the Italian Republic, the language requirements can be distinguished from the professional requirements. The language requirements ought to be checked by the selection board in the course of the selection procedure and not before, by the body that issued the competition notice. The preliminary language restrictions, that is to say, those laid down in the competition notice, are allowable only if they are linked to proved needs of the service. In the present case, the Commission did not specify, in the contested competition notices, the slightest language requirement that might justify those restrictions, while claiming, as is apparent from paragraph 134 of the judgment under appeal, that those limitations 'preclude[d], in practice, participation in the competition in question of the persons concerned' to the extent that they do not satisfy the restrictive language requirements imposed by the notices. That Member State concludes from this that, by holding that it was not for the selection board to assess the language skills of the candidates, because the body that adopted the notice was entitled to carry out a preliminary selection of the persons interested on the basis of language factors above, the General Court infringed the abovementioned provisions and the principle on which they are based, that the competition notices must seek to establish, taking the broadest possible approach, the existence of the language skills which are necessary in order to fill the posts within the institutions.

60 The Commission notes that the Italian Republic repeats arguments already made in the context of the other grounds of appeal and refers back itself to its replies to those grounds. It recalls again that the Italian Republic did not call into question the reality of the situation in the institutions with regard to the use of certain languages in order to facilitate internal communication.

*Findings of the Court*

61 It is necessary to examine together, first, the first three grounds of appeal concerning the publication of the contested competition notices and, second, the last four grounds of appeal, concerning the fixing of English, French and German as the second language, as the language of communication with EPSO and as the language of the tests of the competitions.

Consideration of the first three grounds of appeal, concerning publication of the competition notices

62 According to Article 1 of Annex III to the Staff Regulations, a notice of competition is to be drawn up by the appointing authority after consulting the Joint Committee and must specify certain information regarding the competitions. Since Decision 2002/620 was adopted, the powers of selection conferred, inter alia, under that annex on the appointing authorities of the institutions signing that decision have been exercised by EPSO.

63 Two provisions were relied upon in the present appeal as requiring publication of the competition notices in all the official languages, that is to say, Article 4 of Regulation No 1 and Article 1(2) of Annex III to the Staff Regulations, read in conjunction with Article 5 of Regulation No 1. It is therefore necessary to examine the obligations laid down by each of those provisions.

64 Article 4 of Regulation No 1 provides that regulations and other documents of general application are to be drafted in the official languages. In that regard, the Commission claims as follows: first, that Regulation No 1 is not applicable to notices of competition, because they concern persons to be treated in the same way as officials; second, and in any event, that the institution has the right to decide in which language the notice will be published under Article 6 of that regulation and, finally, that notices of competition are not documents of general application.

65 In paragraph 52 of the judgment under appeal, the General Court held, in accordance with settled case-law, that Regulation No 1 does not apply to the relationship between the institutions and their officials and other servants since it lays down only the language rules applying between the institutions of the European Community and a Member State or a person coming under the jurisdiction of one of the Member States.

66 According to the General Court, the fact that that regulation is inapplicable is explained, first, by the fact that officials and other servants, and candidates for the competition, fall within the exclusive jurisdiction of the Communities with regard to the application of the provisions of the Staff Regulations and, second, by Regulation No 1.

67 In that regard, it is to be noted, first, that the working languages of the institutions are expressly referred to in Article 1 of Regulation No 1, and Article 6 of that regulation provides that the institutions of the [European Union] may stipulate in their rules of procedure which of the languages are to be used in specific cases. However, the institutions concerned by the contested competition notices have not, on the basis of Article 6 of Regulation No 1, stipulated in their rules of procedure which of the languages are to be used in specific cases. In particular, as the Advocate General stated in point 29 of her Opinion, competition notices cannot be regarded as rules of procedure in that regard.

68 In the absence of specific regulations applicable to officials or other servants or stipulations in that regard in the rules of procedure of the institutions concerned by the contested competition notices, no document exists on the basis of which it could be concluded that the relationship between those institutions and their officials and other servants is completely excluded from the scope of Regulation No 1.

69 That is all the more the case with regard to the relationship between the institutions and the candidates for an external competition who are not, in principle, either officials or servants.

70 As concerns, second, the question whether notices of open competition such as the contested competition notices fall under Article 4 of Regulation No 1 or Article 1(2) of Annex III to the Staff Regulations, suffice it to state that Article 1(2) expressly provides, in relation to open competitions, that the competition notice is to be published in the *Official Journal of the European Communities*.

71 Accordingly, without its being necessary to rule whether a competition notice is a document of general application within the meaning of Article 4(1) of Regulation No 1, suffice it to hold, in accordance with Article 1(2) of Annex III to the Staff Regulations, read in conjunction with Article 5 of Regulation No 1, which provides that the *Official Journal of the European Union* is to be published in all the official languages, that the contested competition notices ought to have been published in full in all the official languages.

72 Since those provisions do not provide for any exception, the General Court erred in law by holding, in paragraph 85 of the judgment under appeal, that the later publication of the amendments of 20 June and 13 July 2007, which contain only summary information, remedied the lack of publication of the competition notices in full in the Official Journal in all the official languages.

73 In any event, even if those amendments contained a certain amount of information concerning the competition, proceeding upon the assumption that citizens of the Union read the *Official Journal of the European Union* in their mother tongue and that that language is one of the official languages of the European Union, a potential candidate whose mother tongue was not one of the languages of full publication of the contested competition notices would have had to obtain that journal in one of those languages and read the notice in that language before deciding whether to apply to take part in one of the competitions.

74 Such a candidate was a disadvantage compared to a candidate whose mother tongue was one of the three languages of full publication of the contested competition notices, both with regard to the correct understanding of those notices and concerning the period of time to prepare and send an application to take part in those competitions.

75 That disadvantage is the consequence of the difference in treatment on the ground of language, prohibited by Article 21 of the Charter and by Article 1d(1) of the Staff Regulations, which is caused by those publications. Article 1(d)(6) provides that, while respecting the principle of non-discrimination and the principle of proportionality, any limitation must be justified on objective and reasonable grounds and must be aimed at legitimate objectives in the general interest in the framework of staff policy.

76 The Commission explained at the hearing that the new practice of restricted publication of the notices of competition had been rendered necessary by the additional burden caused by the accession of new Member States to the European Union in 2004 and 2007 and, in particular, by the sudden increase in the number of official languages, when EPSO lacked sufficient translation capacity. It was, however, pointed out at the hearing that the practice did not seem to be linked to the accessions because it was continuing, that the same wording recurred in the competition notices meaning, therefore, that the additional burden might not be insurmountable and that the practical problem of translation capacity had to be balanced against the right of all citizens of the Union to be informed of the competition notices in the same conditions.

77 It follows that the practice of restricted publication does not observe the principle of proportionality and amounts, therefore, to discrimination on the ground of language, prohibited by Article 1(d) of the Staff Regulations.

78 It follows from all the above considerations that the General Court erred in law in ruling that neither Article 1(2) of Annex III to the Staff Regulations, read in conjunction with Article 5 of Regulation No 1, nor Article 1(d) of the Staff Regulations was infringed by publication of the contested competition notices.

Consideration of the last four grounds of appeal, concerning the second language required for communication with EPSO and for the tests of the competitions

79 The Italian Republic, while admitting that full multilingualism would impair the effective functioning of the institutions, criticises the lack of clear, objective and foreseeable rules regarding the choice of the second language of the competitions, creating a situation in which a candidate cannot prepare for the tests. It submits, in addition, that the obligation to take the competition in a second language is in reality an unsatisfactory form of pre-selection because, in its view, a candidate should be selected first on the basis of his professional competence and second his knowledge of languages.

80 The Commission explained at the hearing that the three languages chosen are those that are most used – and have been most used for a long time – in the institutions and that, according to a study by EPSO, between 2003 and 2005 – that is to say, a period when the candidates were able to choose their second language – more than 90% of the candidates for competitions chose English, French or German as their second language. In addition, the Commission argued that the reference to the languages of the competition in the notice enables the candidates to prepare for the tests.

81 In that regard, as has been noted in paragraph 67 above, Article 1 of Regulation No 1 provides that 23 languages are to be, not only official languages, but also working languages of the institutions of the European Union.

82 In addition, Article 1(d)(1) of the Staff Regulations provides that, in the application of the Staff Regulations, any discrimination based on, inter alia, language, is to be prohibited. According to the first sentence of Article 1(d)(6), any limitation of the principles of non-discrimination must be justified on objective and reasonable grounds and must be aimed at legitimate objectives in the general interest in the framework of staff policy.

83 In addition, Article 28(f) of the Staff Regulations provides that an official may be appointed only on condition that he produce evidence of a thorough knowledge of one of the languages of the European Union and of a satisfactory knowledge of another language of the European Union. While that provision lays down that the satisfactory knowledge of another language is required 'to the extent necessary for the performance of the duties', he is called upon to carry out, it does not state the criteria which may be taken into consideration in order to limit the choice of that language among the 23 official languages.

84 Admittedly, according to Article 1(1)(f) of Annex III to the Staff Regulations, the competition notice may where applicable lay down the knowledge of languages required in view of the special nature of the posts to be filled. However, no general authorisation to derogate from the requirements of Article 1 of Regulation No 1 can be derived from that provision.

85 The abovementioned provisions do not therefore provide for explicit criteria which would allow the choice of the second language to be limited, either to the three languages required by the contested competition notices or to other official languages.

86 It should be added that no specific language rules apply to the institutions concerned by the contested competition notices (with regard to the language rules applicable to OHIM, see Case C-361/01 P *Kik* v *OHIM* [2003] ECR I-8283, paragraphs 81 to 97).

87 It must however be established whether the requirement of knowledge of one of the three languages in question could be justified in the interest of the service, as the Commission argues.

88 In that regard, it is apparent from all the abovementioned provisions that the interest of the service may be a legitimate objective that can be taken into consideration. In particular, as stated in paragraph 82 above, Article 1(d) of the Staff Regulations authorises limitations on the principles of non-discrimination and proportionality. Those interests of the service must however be objectively justified and the required level of knowledge of languages must be proportionate to the genuine needs of the service (see, to that effect, Case 79/74 *Küster* v *Parliament* [1975] ECR 725, paragraphs 16 and 20, and Case 22/75 *Küster* v *Parliament* [1975] ECR 1267, paragraphs 13 and 17).

89 In paragraph 126 of the judgment under appeal, the General Court held that 'it is accepted' that the choice of the three languages to be used as the second language for participation in the competitions and tests satisfies the internal requirements of the administration. However, the General Court not only failed to provide reasons for its assertion, but also found that the administration did not have to provide such a statement of reasons.

90 It should be noted in that regard that the rules limiting the choice of the second language must provide for clear, objective and foreseeable criteria so that the candidates may know, sufficiently in advance, what the language requirements are and can prepare to take part in the competitions in the best possible circumstances.

91 As noted in paragraph 67 above, the institutions concerned by the competitions have never adopted rules of procedure in accordance with Article 6 of Regulation No 1. Nor, moreover, has the Commission referred to other measures such as communications which lay down criteria governing the choice of a language as a second language for participation in a competition. Finally, the contested competition notices do not contain any reasoning that might justify the choice of the three languages in question.

92 Contrary to what was claimed by the Commission, the judgment in *Hendrickx* v *Council* does not support the argument that the interest of the service may justify the requirement of knowledge of English, French or German contained in the contested competition notices. While those notices of open competition are addressed to citizens of the European Union, the vast majority of whom are unfamiliar with the institutions, *Hendrickx* v *Council* concerned an internal notice of competition open to officials and other servants working for the Secretariat-General of the Council of the European Union and requiring at least five years' service with the Communities. In addition, the functions to be carried out were clearly described, making it possible for officials and other servants of the Secretariat-General to understand the reasons for the languages to be used for the tests and allowing the General Court to review the choice of those languages.

93 In so far as a legitimate objective of general interest may be relied upon and be shown to be genuine, it should be noted that a difference in treatment on the grounds of language must also observe the principle of proportionality, that is to say, it must be appropriate for attaining the objective pursued and must not go beyond what is necessary to achieve it (see, to that effect, Joined Cases C-453/03, C-11/04, C-12/04 and C-194/04 *ABNA and Others* [2005] ECR I-10423, paragraph 68).

94 In accordance with the first paragraph of Article 27 of the Staff Regulations, the recruitment of officials is to be directed to securing for the institution the services of officials of the highest standard of ability, efficiency and integrity. Since that objective can best be achieved when the candidates are allowed to sit the selection tests in their mother tongue or in the second language of which they think they have the best command, it is, in that regard, for those institutions to weigh the legitimate objective justifying the limitation of the number of languages of the competition against the objective of identifying the most competent candidates.

95 The Commission argued at the hearing that it was possible for the candidates to prepare themselves after the competition notice was published. However, the period between publication of each contested competition notice and the date of the written tests does not necessarily allow a candidate to acquire sufficient language skills to establish his professional competences. Regarding the possibility of learning one of those three languages with a view to future competitions, that presupposes that the languages which will be required by EPSO can be determined far in advance. The absence of rules such as those referred to in paragraph 91 above means, however, that it cannot be at all certain that the languages chosen for the competition will remain the same and makes the situation unforeseeable.

96 Furthermore, an official's knowledge of languages is an essential element of his career and the appointing authorities have various methods at their disposal in order to check that knowledge and the efforts made by officials to put their knowledge into practice and, possibly, to improve that knowledge. That follows, inter alia, from Article 34(3) of the Staff Regulations, concerning the probation period and Article 45(1) thereof, concerning promotion criteria. The importance of knowledge of languages was also reinforced by the reform of 1 May 2004, introduced by Regulation

No 723/2004 since, in accordance with Article 45(2) of the Staff Regulations, officials are now required to demonstrate before their first promotion after recruitment the ability to work in a third language among those referred to in Article 314 EC.

97 In that regard, it is therefore a matter for the institutions to weigh the legitimate objective justifying the limitation of the number of languages of the competitions against the opportunities for recruited officials of learning, within the institutions, the languages necessary in the interest of the service.

98 It follows from the reasoning set out in paragraphs 81 to 97 above that the information provided by the Commission to the General Court did not allow judicial review of whether the interest of the service was a legitimate objective justifying a derogation from the rule laid down in Article 1 of Regulation No 1. Consequently, the General Court erred in law.

99 It is not necessary to rule on the other grounds of appeal or complaints relied upon in connection with the second languages required by the competitions.

100 It follows from all of the foregoing considerations and, in particular, paragraphs 78 and 98 above, that the judgment under appeal should be set aside.

**Consideration of the actions at first instance**

101 In accordance with the second sentence of the first paragraph of Article 61 of the Statute of the Court of Justice of the European Union, if the decision of the General Court is set aside, the Court of Justice may give final judgment in the matter, where the state of the proceedings so permits.

102 In the present case, for the reasons set out above and, in particular, on account of,

— the infringement of Article 1(2) of Annex III to the Staff Regulations, read in conjunction with Article 5 of Regulation No 1;

— the infringement of the principle of non-discrimination on the ground of language, referred to in Article 1(d) of the Staff Regulations,

the contested notices of competition are to be annulled.

103 As proposed by the Advocate General in points 115 and 116 of her Opinion and in order to respect the legitimate expectations of the selected candidates, the results of the contested competitions are not to be called into question.

**Costs**

104 Under Article 184(2) of the Rules of Procedure, where the appeal is well founded and the Court of Justice itself gives final judgment in the case, the Court is to make a decision as to costs.

105 Under Article 138(1) of the Rules of Procedure, which applies to appeal proceedings by virtue of Article 184(1) thereof, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.

106 The Italian Republic applies for the Commission to be ordered to pay the costs relating to the proceedings at first instance and on appeal. Since the Commission has been unsuccessful, it should be ordered to pay the costs of the Italian Republic and to bear its own costs in both sets of proceedings.

107 Under Article 140(1) of the Rules of Procedure, which is also applicable to appeal proceedings by virtue of Article 184(1) of the Rules of Procedure, the Member States and institutions which intervene in the proceedings are to bear their own costs. In accordance with that provision, the Hellenic Republic and the Republic of Lithuania are to bear their own costs.

On those grounds, the Court (Grand Chamber) hereby:

1. **Sets aside the judgment of the General Court of the European Union of 13 September 2010 in Joined Cases T-166/07 and T-285/07;**

2. **Annuls the notices of open competitions EPSO/AD/94/07 to constitute a reserve pool of Administrators (AD 5) in the field of information, communication and the media, EPSO/AST/37/07 to constitute a reserve pool of Assistants (AST 3) in the field of communication and information and EPSO/AD/95/07 to constitute a reserve pool of Administrators (AD 5) in the field of information science (library/documentation);**

3. **Orders the European Commission to pay the costs of the Italian Republic and to bear its own costs in both sets of proceedings;**

4. **Orders the Hellenic Republic and the Republic of Lithuania to bear their own costs.**

[Signatures]