



Afgørelse i den fælles undersøgelse i sag 1337/2017/EA og 1338/2017/EA om tilgængeligheden for synshæmmede kandidater til udvælgelsesprocedurer for EU-tjenestemænd, organiseret af Det Europæiske Personaleudvælgelseskontor

Afgørelse

Sag 1338/2017/EA - Indledt den 14/03/2018 - Henstilling om 14/12/2018 - Afgørelse af 03/06/2019 - Involverede institutioner Det Europæiske Personaleudvælgelseskontor (Konstaterede fejl og forsømmelser) | Det Europæiske Personaleudvælgelseskontor (Henstilling godkendt af institutionen) |

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Sagen vedrørte to klager fra kandidater med nedsat syn, som deltog i udvælgelsesprocedurer med henblik på ansættelse af EU-tjenestemænd, som blev afholdt af Det Europæiske Personaleudvælgelseskontor (EPSO). Klagerne stødte på problemer med onlineansøgningskemaerne, der ikke var fuldt tilgængelige for personer, som benytter skærmlæsere. Klagerne fandt også, at EPSO ikke havde taget højde for deres særlige behov i løbet af de computerbaserede test, da det ikke var muligt for dem at deltage selvstændigt.

Ombudsmanden fandt, at EPSO's handlinger udgjorde et tilfælde af fejl eller forsømmelser. Hun anbefalede, at EPSO gør deres onlineansøgningskemaer fuldt tilgængelige for synshæmmede kandidater hurtigst muligt. Hun anbefalede også, at EPSO fastlægger en detaljeret tidsplan for tilrådighedsstillelsen af hjælpeteknologi til kandidater under de computerbaserede test, der afholdes på testcentre rundt om i verden. Endelig anbefalede hun, at EPSO udtrykkeligt oplyser kandidater om, at visse foranstaltninger til dækning af særlige behov, såsom hjælpeteknologi, i øjeblikket kun lejlighedsvis er til rådighed under udvælgelsesproceduren.

Ombudsmanden glæder sig over, at EPSO som reaktion på hendes anbefalinger opdaterede oplysningerne til kandidater, om foranstaltninger til dækning af deres særlige behov. Hun glæder sig også over EPSO's forslag om at give synshæmmede kandidater mulighed for at aflægge computerbaserede tests eksternt, ved hjælp af fjernadgangsteknologier. Ombudsmanden er imidlertid ikke helt tilfreds med den tidsplan, som EPSO har foreslået for at gøre sit onlineansøgningskema fuldt tilgængeligt. Hun afslutter derfor sin undersøgelse



ved at gentage denne anbefaling til EPSO og anser de øvrige punkter for afklarede.

Background to the inquiry

1. The complainants, who are visually impaired, took part in selection procedures organised by the European Personnel Selection Office (EPSO) in 2016 and 2017. They had problems using the online application form — including the form for requesting measures to accommodate their special needs ('reasonable accommodation' [1]) — and with the computer-based tests they sat, as these did not take into account the accessibility needs of visually impaired persons.

2. The complainants raised these problems with EPSO many times.

3. The complainants were dissatisfied with how EPSO responded and turned to the Ombudsman.

The inquiry

4. In the course of the inquiry, the Ombudsman asked EPSO to reply to specific questions and held a meeting with EPSO.

5. In December 2018, the Ombudsman found EPSO's actions constituted maladministration and made three recommendations to address this. EPSO replied to the Ombudsman in March 2019. [2]

The Ombudsman's findings of maladministration and recommendations

6. The Ombudsman noted that the complainants first raised their concerns with EPSO about the accessibility of the online application form for users of screen readers [3] in 2016. At the time, EPSO explained that a new 'Candidate Portal', which was being developed by the European Commission's Directorate-General for Informatics (DG DIGIT), would include an online application form that is fully accessible for the visually impaired. This portal was to be finalised by spring 2017. However, the project was put on hold in September 2017, and EPSO could not specify a date for its launch. As a result, persons with visual disabilities continued to experience problems applying for selection procedures run by EPSO. The Ombudsman found this delay to constitute maladministration.

7. The complainants were also concerned that, while they requested screen readers and 'refreshable braille displays' [4], they were provided instead with braille transcriptions of the tests and a sighted assistant. The Ombudsman stressed that enabling persons with disabilities to sit the tests in a selection procedure independently is vital to guaranteeing their dignity and equality with other persons. Assistive technologies are crucial to this end. Given that visually impaired persons often rely on assistive technologies, EPSO should, to the greatest extent possible, make these technologies available to them, upon request, when they have to sit computer-based tests in selection procedures. It is not appropriate to expect candidates to sit tests under conditions that are totally alien to them, as this risks impacting negatively upon their performance. The Ombudsman thus found EPSO's practice in this area to constitute maladministration.

8. Lastly, the Ombudsman noted that, although applicants were informed that the measures made available by EPSO to accommodate their needs may differ from those requested, EPSO



did not state explicitly that assistive technologies are not available for the computer-based tests when these are carried out in testing centres around the world. The Ombudsman considered that this lack of appropriate information constituted maladministration.

9. On the basis of her inquiry, the Ombudsman made **three recommendations** to EPSO :

1. EPSO should ensure that its online application form for selection procedures is made fully compliant with accessibility requirements for visually impaired candidates as soon as possible;

2. EPSO should set out a detailed timeline for making assistive technologies available to candidates during the computer-based tests which take place in testing centres around the world;

3. EPSO should explicitly inform candidates that certain 'reasonable accommodation' options, such as assistive technologies, are currently available only at specific stages of selection procedures.

EPSO's reply to the Ombudsman's recommendations and complainant's comments

First recommendation: Accessibility of the online application form

10. EPSO said that it is in the process of replacing its current IT ' *Talent* ' system for selection procedures, including the online application form. The new IT system is foreseen to be in place by the end of 2020. In the meantime, EPSO will provide candidates with assistance and accessible formats of the application form, where necessary. EPSO further noted that it regularly assesses the accessibility of its website and that, by the end of 2019, its website should be compliant with Web Content Accessibility Guidelines 2.0, level AA [5] .

11. The complainant [6] was pleased to note that EPSO is improving accessibility by foreseeing a new online application form and a new IT system for selection procedures.

12. The complainant noted, however, in relation to the accessibility of EPSO's website, that the World Wide Web Consortium (W3C) currently recommends WCAG 2.1 accessibility standards and argued that EPSO should be compliant with the latest requirements.

Second recommendation: Making assistive technologies available during the computer-based tests

13. EPSO said that, due to technical and infrastructural constraints, it is impossible to guarantee that assistive technologies can be provided in 89 testing centres worldwide. However, it proposed enabling visually impaired candidates to sit computer-based tests off-site via remote access technology (with 'remote proctoring'). In this way, visually impaired



candidates will be able to sit the tests from their home without the need to travel, while using the assistive technology with which they are familiar.

14. EPSO added that it is difficult to indicate the exact timeline for implementing this proposal, and that it will keep the Ombudsman updated. In the meantime, it will continue to offer candidates all measures currently in place.

15. The complainant agreed that computer-based tests via remote proctoring can indeed be an ideal solution if such a system is compatible with assistive technologies at one's home.

16. In response to EPSO's statement that an exact timeline for the implementation of this system cannot be established, the complainant pointed out that visually impaired persons in the meantime cannot rely on assistive technologies during the computer-based tests. Doing the computer-based tests with the help of an assistant cannot be considered as an ideal solution in terms of accessibility, she said.

Third recommendation: Information to candidates regarding measures to accommodate special needs

17. EPSO informed the Ombudsman that it updated the relevant information on its website in accordance with her recommendation. [7] The text on the website now reads:

"Please note that assistive technology is for the moment only possible at the Assessment Centre phase in Brussels. EPSO is currently working at enlarging the scope to allow the use of assistive technology at other stages of the selection process and for different types of tests. In the meantime, we will continue to analyse your needs and offer you assistance and ad-hoc accommodations to allow you to take the tests in the best possible conditions. All other accommodations are possible at different stages of the selection process."

EPSO added that it will update the relevant webpage in 2019 to give more information about its equality and diversity policy and to share testimonies from staff members with a disability. EPSO will further develop practical tools such as manuals, brochures and videos to explain better how it can accommodate candidates with special needs.

18. The complainant welcomed the fact that EPSO has updated the relevant information on its website, noting that this makes the procedure more transparent.

The Ombudsman's assessment after the recommendation

19. While the Ombudsman appreciates the efforts EPSO is making to make its online application form fully compliant with the accessibility requirements for visually impaired candidates, she is disappointed with the timeline it sets out, namely the end of 2020.

20. In her recommendation, the Ombudsman urged EPSO to resolve this issue as soon as possible. She pointed out that the UN Committee on the Rights of Persons with Disabilities recommended in 2015 that the EU should take the necessary measures to ensure the full application of accessibility standards on its websites. [8] Moreover, the complainants first



encountered problems accessing EPSO's online application form in 2016. Although the Ombudsman understands that there have been difficulties developing the new IT tool, some of which are beyond EPSO's control, a further delay until the end of 2020 is hard to justify.

21. As the complainant points out (see paragraph 12), standards in this area are evolving and expectations rising. Given the UN Committee's statement that the EU institutions "*are not role models with regard to employment of persons with disabilities*" and its recommendation that the EU "*increase employment of persons with disabilities*", **[9]** it is particularly important that the first point of entry for individuals seeking to work for the EU administration, namely EPSO's online application form, is fully accessible. As such, the Ombudsman confirms her finding of maladministration on the accessibility of EPSO's online application form and encourages EPSO to intensify its efforts on this point.

22. Regarding the **second recommendation**, the Ombudsman welcomes the solution proposed by EPSO to introduce computer-based tests via 'remote proctoring' for visually impaired candidates. She is pleased that the proposal goes further than simply providing candidates the possibility to sit the computer-based tests independently in a testing centre. EPSO's solution allows candidates to sit the tests under conditions with which they are totally familiar, for example, by using their own PC/laptop and the screen reader of their choice.

23. In her recommendation, the Ombudsman asked EPSO to set out a detailed timeline for making assistive technologies available to candidates during the computer-based tests. The Ombudsman expects EPSO to devise a timeline for the alternative solution it sets out and to publish the relevant information on its website.

24. Concerning the **third recommendation**, the Ombudsman welcomes the fact that EPSO has updated its website to inform candidates about the availability of assistive technologies. She further welcomes EPSO's intention to expand the information available on the equal opportunities webpage.

25. The Ombudsman notes that EPSO currently informs candidates that "*[a]ll other accommodations are possible at different stages of the selection process*". The Ombudsman understands this statement as meaning that other measures are not possible at **all** stages. If this is so, she urges EPSO to be as precise as possible in the information it provides to candidates. It is important that candidates can find out in advance what measures are available for accommodating their needs during each phase of the selection procedure.

Conclusion

Based on her inquiry, the Ombudsman closes this case with the following conclusion:

The Ombudsman confirms her finding of maladministration in relation to her first recommendation. As EPSO accepted her second and third recommendations, the Ombudsman considers these issues to be settled.

The complainants and EPSO will be informed of this decision.



Emily O'Reilly

European Ombudsman

Strasbourg, 03/06/2019

[1] According to the definition contained in the UN Convention on the Rights of Persons with Disabilities, 'reasonable accommodation' means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms. The Convention is available at the following link:

<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities>.

[2] All documents related to the inquiry, including the Ombudsman's letter opening the inquiry, EPSO's reply, the meeting report, the Ombudsman's recommendations, and EPSO's reply to the recommendations are available at:

<https://www.ombudsman.europa.eu/en/case/en/50583>

[3] A screen reader is a software application that enables the user to "hear" or "read" what is usually "seen" on a screen including the digital content. It can provide information to users through speech and sound output (that is text to speech) or in Braille (in other words, transcribing the content into Braille using a refreshable Braille display), on their own or in combination.

[4] See footnote above.

[5] These guidelines were developed by the World Wide Web Consortium (W3C) in 2008, with help from individuals and organisations around the world. They set out how to make web content more accessible for people with disabilities. There are three levels of commitment: compliance levels A, AA and AAA.

[6] One of the complainants submitted comments on EPSO's opinion to the Ombudsman.

[7] https://epso.europa.eu/how-to-apply/equal-opportunities_en#tab-0-2

[8] Concluding observations regarding the EU's implementation of the Convention on the Rights of Persons with Disabilities, 2 October 2015. See points 82-83.

[9] Concluding observations regarding the EU's implementation of the Convention on the Rights of Persons with Disabilities, 2 October 2015. See points 88-89.

