

Entscheidung in der Sache OI/1/2012/MHZ - Verfahren des EPSO zur Überprüfung der Unterlagen der Bewerber

Entscheidung

Fall OI/1/2012/MHZ - **Geöffnet am** 19/01/2012 - **Entscheidung vom** 19/12/2012 -

Betroffene Institution Europäisches Amt für Personalauswahl (Keine weiteren Untersuchungen gerechtfertigt) |

2010 führte das EPSO ein neues Verfahren ein, nach dem Auswahlausschüsse nur die Unterlagen derjenigen Bewerber prüfen, die bei den Prüfungen im Assessment-Centre erfolgreich sind, d. h. erst am Ende des Auswahlverfahrens. Wenn die Auswahlausschüsse die Unterlagen der erfolgreichen Bewerber nicht akzeptieren, werden diese Bewerber nicht in die Reserveliste aufgenommen.

Beim Bürgerbeauftragten gehen regelmäßig Beschwerden von Bewerbern ein, die von diesem Verfahren betroffen sind . Da das EPSO dieses Verfahren in keinem öffentlichen Dokument begründet hat, leitete der Bürgerbeauftragte eine Untersuchung aus eigener Initiative ein, um diese Angelegenheit zu klären.

Er ersuchte das EPSO um Beantwortung der Frage, ob im Fall von Auswahlverfahren, bei denen nicht mehr als 100 Bewerber die Voraussetzungen für die Prüfungen im Assessment-Centre erfüllen, die Auswahlausschüsse die Unterlagen, insbesondere zu Ausbildung und Berufserfahrung, prüfen könnten, bevor die Einladungen zum Assessment-Centre verschickt werden. Er forderte das EPSO zudem auf, in seiner Antwort auf folgende Punkte einzugehen: (i) die möglichen Einsparungen durch ein solches Vorgehen für den EU-Haushalt; (ii) das Interesse der Bewerber, informiert zu werden, wenn ihre Berufserfahrung als nicht relevant beurteilt wird, bevor sie Zeit und Mühe in die Vorbereitung für die Prüfungen im Assessment-Centre aufwenden, und (iii) die Tatsache, dass bei den Auswahlverfahren vor 2010 die Unterlagen geprüft wurden, bevor die Einladungen zu schriftlichen/mündlichen Prüfungen verschickt wurden.

In seiner Stellungnahme vertrat das EPSO im Wesentlichen die Auffassung, dass (i) die Angabe der einschlägigen Berufserfahrung/Abschlüsse bei der Online-Anmeldung und (ii) die Verfügbarkeit derselben Daten in den Unterlagen, die sich im Besitz des Bewerbers befinden, für die Bewerber eine wirksame Garantie darstellen, dass der Auswahlausschuss diese Dokumente bei der eingehenden Überprüfung nach Absolvierung der Prüfungen als ausreichend ansehen wird. Das Amt erklärte ferner, im neuen Verfahren müssten die



Auswahlausschüsse weniger Unterlagen prüfen, wodurch Geld und Zeit gespart würden.

Der Bürgerbeauftragte war von dieser Argumentation nicht restlos überzeugt und vertrat weiterhin die Auffassung, dass die Auswahlausschüsse angesichts ihres großen Ermessensspielraums nach der Prüfung der Unterlagen immer zu dem Schluss kommen könnten, dass sie nicht ausreichen. Außerdem wies er darauf hin, dass die Zeitersparnis angesichts der Länge des gesamten Auswahlverfahrens und im Vergleich zu dem Zeitaufwand unwesentlich sei, der erforderlich sei, um Bewerber ohne ausreichende Unterlagen die langen und kostspieligen Prüfungen im Assessment-Centre ablegen zu lassen.

Trotz dieser Erwägungen war der Bürgerbeauftragte der Auffassung, weitere Untersuchungen in dieser Angelegenheit seien nicht gerechtfertigt, da dieses Verfahren auf den ausdrücklichen Wunsch der Einrichtungen, für die das EPSO Auswahlverfahren organisiert, in dieser Weise ausgeführt werde. Aus diesem Grund schloss er den Fall.

The background to the own-initiative inquiry

1. In 2010, EPSO introduced a "*new model*" of competitions for selecting permanent staff for EU Institutions, which is made up of admission CBT tests and of assessment centre tests (final tests). This new model was introduced in order to speed up the entire competition procedure. [1]
2. In the "*old model*" competitions, the candidates' supporting documents were verified before the invitations for the final examination (written/oral exams) were issued. This meant that all candidates who were invited to the final examination could be placed on the reserve list if they were successful in that examination.
3. EPSO's procedure in the "*new model*" competitions is that the selection boards check the supporting documents only of the candidates who are successful in the final tests of a competition, that is, in the tests conducted in the Assessment Centre. If the selection boards do not accept the supporting documents of the successful candidates, those candidates are rejected and are not placed on the reserve list.
4. It would arguably be better for candidates if they were informed of the selection boards' decision on their supporting documents before sitting the assessment centre tests, for which they usually prepare, and invest time, effort and even money. This is the case in particular because the relevance of the candidates' professional experience, **which is referred to in their supporting documents**, to the duties of the job for which they apply (an eligibility condition in EPSO competitions) is not always objectively obvious. If candidates are unaware of the relevance of the professional experience to the duties, they will ultimately be unsuccessful in the competition, even if they are successful in the Assessment Centre.
5. It also appears that the participation in the assessment centre tests of candidates who are ultimately rejected because of a lack of -- or insufficient -- supporting documents might not be



justified from an economic point of view. The invitations to the Assessment Centre involve EU costs which could be avoided if candidates' supporting documents were verified before the invitations to the Assessment Centre are issued.

6. The information provided by EPSO on its website [2] and in the *Guide to open competitions* [3], does not clarify why the current procedure provides for checking supporting documents only at the very last moment, that is to say, when the successful candidates have already been identified after the assessment centre tests.

7. The Ombudsman therefore took the view that the issues mentioned above needed to be clarified by EPSO. Article 228 of the TFEU empowers the European Ombudsman to conduct inquiries on his own initiative into possible instances of maladministration in the activities of Community institutions and bodies. The Ombudsman thus decided to open the present own-initiative inquiry to give EPSO an opportunity to explain the selection boards' timing for assessing the candidates' qualifications on the basis of the accompanying supporting documents.

The subject matter of the own-initiative inquiry

8. In his letter opening the present own-initiative inquiry, the Ombudsman referred to a complaint against EPSO concerning Open Competition EPSO/AST/112/10 and stated that the facts of that complaint drew his attention to the issues which are the subject of the present own-initiative inquiry. He asked EPSO to indicate whether, in competitions in which not more than 100 candidates qualify for tests in the Assessment Centre, the Selection Board could verify the supporting documents, in particular those relating to education and professional experience, before the invitations to the Assessment Centre are issued.

9. The Ombudsman asked EPSO to take into account, in its reply, (i) the possible savings to the EU budget from such an approach; (ii) the interest of candidates in being informed if their professional experience is not considered relevant before they invest time and effort in the assessment centre tests; and (iii) the fact that, in the "old model" competitions, the supporting documents were verified before the invitations for written/oral exams were issued.

The inquiry

10. On 19 January 2012, the Ombudsman asked EPSO for an opinion. On 31 May 2012, EPSO submitted its reply.

The Ombudsman's analysis and conclusions

A. The Selection Boards' timing for assessing the



candidates' qualifications on the basis of supporting documents

EPSO's arguments

11. EPSO referred to Open Competition EPSO/AST/112/10 ('the Competition'). It stated that the selection board drew up the list of candidates who obtained the highest total marks in the admission tests and who, in light of the information given in their online application, fulfilled the general and specific conditions listed in the competition notice. These candidates were then invited for the assessment centre tests. According to EPSO, "*this means that all candidates invited for the assessment centre tests fulfilled, on the basis of the information in their online application, the general and specific conditions as required by the Notice.*"

12. Upon verification of the supporting documents, the selection board might be of the opinion that the supporting documents of certain candidates do not, or do not sufficiently, confirm/validate the information provided in their online application. Referring to the competition mentioned above, EPSO explained: "*This is not a question of whether or not ... [the candidates'] professional experience was relevant to the duties as described in the Notice but rather a question of producing evidence of information supplied in the online application. The selection board had already decided, on the basis of this information, that their professional experience was relevant in order to admit the candidates, however, on the condition that this information was later supported by the necessary documentary proof.*" In EPSO's view, candidates knew how to draft the information in their online application in such a way as to convince the selection board that they were eligible to be admitted to the Competition but some failed to support that information with the required documentation.

13. The stage at which the supporting documents are verified might change from competition to competition but it is only in very exceptional cases that an Institution still insists on having the notice drafted in such a way as to have the documents verified at an earlier stage. For competitions with a high number of applicants in particular, it is more cost effective and time efficient to do the full verification "*only before placing successful candidates on the reserve list*".

14. EPSO made a comparison between the costs generated by the two procedural approaches: the former approach, where the supporting documents were verified before the final tests; and the current approach, where they are verified only after those tests. In the Competition, a total of 499 candidates were invited to sit the assessment centre tests, and only 193 were successful. Under the current system, where the supporting documents of only the candidates successful in the assessment centre tests are checked, the Selection Board needed to verify only 193 files, instead of the 499 files it would have needed to check under the former approach. This resulted in less than half the man-hours being needed to carry out the verification. Verification of supporting documents is very time-consuming and "labour-intensive". Experience shows that only a very limited number of candidates are unable to provide the necessary proof of the information they furnish in their online application. For the Competition, only 11 candidates (out of 193) were ultimately unable to provide the necessary supporting



documents justifying the information given in their online application. EPSO is convinced that the current method generates real savings to the EU budget when compared with the former approach.

15. In addition, the notice of competition defined the number of candidates to be invited to the assessment centre tests as a multiple (2.5 times) of the number of candidates who could be placed on the reserve list. That number was thus "*more or less fixed*." For that reason, verifying the supporting documents before sending the invitations for the assessment centre tests would not have reduced the number of candidates invited and would, therefore, not have led to further savings for the EU budget. For the competition in question, it would have resulted in a situation where, instead of the 11 candidates who were ultimately not able to produce the necessary supporting documents, 11 other candidates would have been invited.

16. EPSO concluded that, as regards the candidates who were invited to the Assessment Centre, the selection board decided on their eligibility and admitted them to the assessment centre tests on the basis of information they had provided in their online applications. Limiting the checking of the eligibility criteria to the documents of those candidates who can be placed on the reserve list involves a considerable gain of time and reduces, therefore, the length of the admission phase.

17. Before investing time and effort in the assessment centre tests, candidates have an interest in being informed of whether or not their professional experience is considered relevant. EPSO is convinced that this is the case in the current system. If candidates, in line with the declaration of honour they sign, produce documents that support the information given online, the verification of those documents will not change their eligibility.

The Ombudsman's assessment

18. At the outset, the Ombudsman points out that, pursuant to the current rules on competitions, the supporting documents subject to being checked by the selection board after the assessment centre tests are generally those confirming the statements candidates make in their online application concerning: (i) citizenship; (ii) professional experience; and (iii) academic qualifications. [4]

19. The Ombudsman has already received complaints alleging that, even if a candidate referred to supporting documents in his/her possession and, in so doing, included information in the online application about his/her specific certificates [5] or his/her specific employment contracts and/or invoices relating to periods of self-employment [6] (on the basis of which he/she was subsequently accepted to the CBT), the selection board, when verifying the supporting documents at the final stage of the competition, did not consider these documents as sufficient evidence for the required qualifications.

20. The Ombudsman is therefore not entirely convinced by EPSO's view, in substance, that, (i) the indication of the relevant professional experience/diplomas in the online application and (ii)



the availability of the same data in the supporting documents in the candidates' possession, constitute effective guarantees for candidates that the selection board will consider these documents as sufficient when checking them one by one, after the assessment tests have taken place. In this context, the Ombudsman wishes to recall here the argument put forward by EPSO in many of the Ombudsman's inquiries (and which he does not challenge), namely, that selection boards have a wide margin of appreciation as regards the relevance of the supporting documents, a margin of appreciation which is recognised by the case-law of the EU courts.

21. It follows that candidates who decide to take part in a competition and are in possession of specific supporting documents may not always be certain of the selection boards' final assessment of these documents. In this context, it should be noted that candidates need to prepare for the assessment tests. Doing so involves an investment of time and, often, of money. It would therefore have been better for them if, before making such an investment, they could have known what the selection board's final decision on their supporting documents is.

22. The very same situation can also be seen from a different perspective. If a candidate first provides in his/her online application the information on his/her qualifications, is then accepted to the CBT on the basis of this information, goes through the CBT and the assessment tests procedure successfully and, at the end, the selection board decides that his or her supporting documents are not sufficient, this candidate in fact takes the place, in the Assessment Centre, of another candidate whose supporting documents could be sufficient but who obtained results in the CBT tests that are just below the established threshold for a fixed number of candidates to be invited to the assessment centre. In this respect, the Ombudsman notes EPSO's statement in its opinion that the number of candidates admitted to the assessment centre is "*... more or less fixed. For that reason, verifying the supporting documents before sending the invitations for the assessment centre tests would not have reduced the number of candidates invited and would, therefore, not have led to further savings for the EU budget. For the competition in question, it would have resulted in a situation where, instead of the 11 candidates who were ultimately not able to produce the necessary supporting documents, 11 other candidates would have been invited*". In the Ombudsman's view such a situation, albeit hypothetical, may raise doubts as to whether the competition indeed provides an opportunity for the best deserving candidates to be put on the reserve list.

23. The Ombudsman is grateful that, in its opinion, EPSO followed his original suggestion and provided arguments in support of its procedure in question related to (i) possible financial advantages for the EU budget, and (ii) possible saving of time. The Ombudsman is however not entirely convinced by all these arguments either.

24. EPSO's argument (quoted in point 22 above) that the number of candidates to be invited to the assessment centre tests is more or less fixed has its merits in showing that the time at which the supporting documents are checked has no impact on EU costs such as those related to candidates' travel and subsistence expenses. Whether the supporting documents are checked before or after the assessment centre tests, the costs for candidates' travel and subsistence expenses will always be the same because the same fixed number of candidates will be invited to the Assessment Centre.



25. On the other hand, even if the operational costs of the Assessment Centre are not affected by the fact that the supporting documents are checked before or after the invitation to the assessment centre tests because the Assessment Centre is kept operational at all times in EPSO's headquarters in Brussels, one could indeed argue that there is a bad use of time and money if the Selection Board members conduct assessment tests for candidates who should not have been admitted if their supporting documents had been checked before and who could in any case not be put on the reserve lists, even if they were successful in those tests.

26. Furthermore, EPSO argued, in substance, that selection boards need more time to check the files of all candidates invited to sit assessment centre tests than they need to check the files of only those who are successful in those tests.

This statement by EPSO however has to be analysed in the context of the length of the procedure for the entire competition, namely, about 6-8 months. In that context there is no significant difference in terms of time if the selection board checks the supporting documents before of after the assessment centre tests take place. The Ombudsman believes that it is reasonable to assume that one experienced member of a professional selection board should be easily able to check around 100 files (supporting documents) during one working day. It follows that there would be a rather minimal difference between the number of days needed for checking 499 files (the files of all candidates invited to the assessment centre tests in the competition to which EPSO referred in the opinion) instead of only 193 files (the files of all candidates successful in those tests). The time saved with such a way of proceeding appears therefore to be minimal [7] . Obviously, if more than one member of the Selection Board was in charge of those checks (which should be the normal case), the time saved would be minimal, especially if compared to the time it took to have the "*inadmissible candidates*" go through the long and costly assessment centre tests.

27. In light of the above findings, the Ombudsman takes the view that EPSO's clarification on the advantages of the procedure for checking the supporting documents after the assessment tests take place is not entirely convincing. However, given that, as EPSO pointed out, this procedure is carried out upon the express wishes of the Institutions for which EPSO organises the competitions, the Ombudsman considers that further inquiries concerning EPSO are not justified in this instance.

B. Conclusions

The Ombudsman therefore closes the present own-initiative inquiry with the following conclusion:

No further inquiries into this matter are justified.

EPSO will be informed of this decision.



P. Nikiforos Diamandouros

Done in Strasbourg on 19 December 2012

[1] http://europa.eu/epso/discover/selection_proced/selection/index_en.htm

[2] http://europa.eu/epso/discover/selection_proced/selection/index_en.htm

[3] OJ 2011 C315A p. 1-14. The same situation occurs as regards the newest version of the Guide (OJ 201270A).

[4] *Guide to open competitions* , point 6.1.4.

[5] For instance, complaint 962/2011/AN concerns supporting documents proving academic or equivalent qualifications. The complainant took part in an EPSO competition which required a diploma attesting completion of one year of training in the relevant field. The complainant held a professional certificate showing that duration of training in the relevant field, issued by the *Institut du Monde Arabe* . She mentioned this in her application form. After she passed the assessment centre tests with excellent marks, she was excluded from the reserve list because her certificate of professional training could allegedly not be considered a diploma issued by a school. The Ombudsman made a friendly solution proposal, which was rejected. The case is not yet closed.

[6] Complaint 2518/2011/MHZ concerns supporting documents proving professional experience. The complainant was successful in the assessment centre tests. The Selection Board decided, however, on the basis of the documents provided, that her professional experience was not sufficient for her to be placed on the reserve list. After having received EPSO's opinion and the complainant's observations, the Ombudsman decided to conduct further inquiries, which are ongoing.

[7] Surely not more than two or three days if only one person would do the checking.