

Decision in case 865/2017/AMF on the European Personnel Selection Office's decision to exclude the complainant from further participation in a staff selection procedure for EU civil servants

Decision

Case 865/2017/AMF - Opened on 15/06/2017 - Decision on 02/10/2018 - Institution concerned European Personnel Selection Office (No maladministration found) |

The case concerned the European Personnel Selection Office's (EPSO) decision not to admit the complainant to the final stage of a selection procedure for the recruitment of EU civil servants to work as investigators specialised in customs and trade, tobacco and counterfeit goods. The complainant was not admitted to the final stage because he did not obtain a sufficiently high score for his professional experience and qualifications.

The Ombudsman inquired into the issue and found nothing to suggest a manifest error in the Selection Board's assessment of the complainant's qualifications. The Ombudsman therefore closes the inquiry with a finding of no maladministration.

Background to the complaint

1. The complainant took part in a selection procedure for the recruitment of EU civil servants, which was organised by the European Personnel Selection Office (EPSO) [1] . The selection procedure was organised to recruit investigators specialised in "customs and trade, tobacco and counterfeit goods".
2. In November 2016, EPSO informed the complainant that he had passed the first stage of the selection procedure (the computer-based tests) and that he was thus admitted to the second stage, the selection based on qualifications, also called the 'talent screener'. In the talent screener, candidates have to answer a number of questions about their professional experience and qualifications. The questions are based on the selection criteria for the selection procedure in question. The selection board then assesses the candidates' answers and marks them [2] .
3. In March 2017, EPSO informed the complainant that, on the basis of the information he had provided in response to the talent screener questions, he had not obtained sufficient points to reach the pass mark to be admitted to the final stage of the selection procedure (the



assessment centre). The complainant had obtained 14 points and the pass mark was 24 points. EPSO provided the complainant with the points that he had been awarded for each of his answers in the talent screener.

4. The complainant asked for a review of the decision awarding him 14 points in the talent screener. In April 2017, EPSO informed the complainant that the Selection Board had reviewed its decision and that it had awarded him 8 more points. However, the total score obtained by the complainant (22 points), was still not enough for him to be admitted to the assessment centre stage of the selection procedure.

5. Dissatisfied with the outcome of the review, the complainant turned to the Ombudsman in June 2017.

The inquiry

6. The Ombudsman opened an inquiry into the complaint that EPSO was wrong not to admit the complainant to the next stage of the selection procedure.

7. In the course of the inquiry, the Ombudsman took into account the arguments and information provided by the parties, as set out in the documents provided by the complainant, which included the correspondence between him and EPSO on the case. The Ombudsman's inquiry team also inspected EPSO's file on this case.

Arguments presented to the Ombudsman

8. The complainant argued that the Selection Board was wrong not to award him any points for his replies to questions 1 [3] and 8 [4] of the talent screener, as he considered that he has the required experience.

9. EPSO stated that, before evaluating the candidates' profiles, the Selection Board decided on a 'weighting' for each selection criterion in the Notice of Competition. The Selection Board then established evaluation criteria and a scoring grid for each talent screener question that corresponded to the selection criteria. The weighting, as well as the evaluation criteria, were established on the basis of the relevance of each criterion to the nature of the duties of the posts to be filled, taking into account the recruitment needs of the institutions. The talent screener scoring was thus done on the basis of the pre-established criteria and the procedure was rigorously applied to all candidates in order to ensure equal treatment. The Selection Board awarded points based on the relevance, duration, level of tasks and responsibilities specified by each candidate in the replies to the talent screener questions. EPSO added that, according to established case-law [5], a candidate's personal belief about the relevance of his profile cannot replace the Selection Board's assessment and does not constitute irrefutable evidence of a manifest error committed by the Selection Board.



10. During the inspection carried out by the Ombudsman's inquiry team, EPSO explained that, according to the "Criteria for Talent Screener Scoring" for the selection procedure in question (adopted by the Selection Board in October 2016), the scoring for candidates who declared "**less than 6 years of experience**" in reply to questions 1 and 8 of the talent screener was established at 0 points. EPSO provided the Ombudsman with a copy of the document.

The Ombudsman's assessment

11. The Selection Board is bound by the selection criteria set out in the Notice of Competition. At the same time, it enjoys a wide margin of discretion when assessing a candidate's qualifications and professional experience on the basis of those criteria [6]. The margin of discretion given to the Selection Board means that the Ombudsman can question the assessment done by the Selection Board only in case of a manifest error [7].

12. The talent screener aims at choosing, from among the eligible candidates, those whose profiles best match the duties to be performed. In doing so, the Selection Board applied the scoring procedure as described in paragraph 9 above, which falls entirely within the Selection Board's discretion. In the present selection procedure, the Selection Board had decided that candidates who declared **less than 6 years** of relevant experience in their replies to questions 1 and 8 of the talent screener would not be awarded any points.

13. It is understandable that the complainant is disappointed with not having passed the selection procedure. However, there is nothing to suggest that the Selection Board made a manifest error in its scoring of the complainant's talent screener answers by finding that the complainant did not have the required number of years of relevant experience to be awarded points in relation to questions 1 and 8 of the talent screener.

Conclusion

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

There was no maladministration by EPSO in not admitting the complainant to the final stage of the selection procedure.

The complainant and EPSO will be informed of this decision.

Emily O'Reilly

European Ombudsman

Strasbourg, 02/10/2018



[1] EPSO/AD/323/16 AD7 see:

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2016:187A:FULL&from=EN>

[2] For more information on the talent screener, see https://epso.europa.eu/help/faq/2711_en [Link].

[3] Question 1: *Do you have professional experience in carrying out investigations aiming at the protection of the financial interests of the EU in the field of customs and trade, tobacco or counterfeit goods?*

[4] Question 8: *Do you have professional experience of working in an international environment or with international organisations in relation to the duties as described for this profile?*

[5] Judgment of the Court of First Instance (Third Chamber) of 15 July 1993 in Joined Cases T-17/90, T-28/91 and T-17/92, *Camara Alloisio e.a. v Commission*, ECLI:EU:T:1993:69, paragraph 90.

[6] Judgment of the General Court of 11 February 1999, Case T-244/97, *Mertens v Commission*, ECLI:EU:T:1999:27, paragraph 44; judgment of the General Court of 11 May 2005, Case T-25/03, *De Stefano v Commission*, ECLI: EU:T:2005:168, paragraph 34.

[7] See Decision of the European Ombudsman closing the inquiry into complaint 14/2010/ANA against the

European Personnel Selection Office, paragraph 14 (decision available here:

https://www.ombudsman.europa.eu/cases/decision.faces/en/10427/html.bookmark#_ftnref5 [Link]); judgment of the Court of First Instance of 31 May 2005, Case T-294/03, *Gibault v Commission*, ECLI:EU:T:2005:190, paragraph 41.