



## Decision of the European Ombudsman on complaint 1014/98/PD against the European Parliament

Decision

Case 1014/98/BB - Opened on 12/10/1998 - Decision on 28/06/1999

Strasbourg, 28 June 1999 Dear Mr A., On 28 September 1998 you made a complaint to the European Ombudsman concerning the European Parliament. You put forward that the Parliament had wrongly marked an exam paper of yours and refused access to the marked exam paper. On 12 October 1998 I forwarded the complaint to the President of the European Parliament. On 24 November 1998 you made a further submission. The Parliament sent its opinion on 26 January 1999 and I forwarded it to you with an invitation to make observations, if you so wished. On 23 March 1999, I received your observations on the Parliament's opinion. I am writing now to let you know the result of the inquiries that have been made.

**THE COMPLAINT** The background to the complaint is in brief: The complainant participated in competition EUR/A/111, organised for the constitution of a reserve lists of administrators of Portuguese mother tongue, and run by the European Parliament. The complainant was admitted to the written exams. He failed in one of the exams. Fearing that the failure could have been caused by a violation of the principle of equal treatment of applicants, he asked for a review of the marks obtained. After the selection board had reviewed the marking and confirmed its original decision, the complainant nevertheless continued to fear that the said principle could have been violated and furthermore wanted access to the marked exam paper. This request for access was also refused by the selection board. Against this background, he lodged the complaint with the European Ombudsman.

**THE INQUIRY**

**The Parliament's opinion** In its opinion, the Parliament maintained the selection board's decisions. The Parliament stated that the complainant's exam was marked by two members of the selection board and, upon appeal from the complainant, further two members had reviewed the marking.

**The complainant's observations** In his observations, the complainant maintained the complaint.

**THE DECISION**

**1 Violation of the principle of equal treatment of applicants**

1.1. The complainant participated in a competition organised by the European Parliament. The complainant did not pass a written exam in the competition and suspected that this was due to a violation of the principle of equal treatment of applicants. He approached the Parliament on this subject and furthermore asked for access to his marked exam papers. As these approaches were unsuccessful, he lodged the complaint with the European Ombudsman, alleging that the principle of equal treatment of applicants had been violated and that he should have access to his marked exam paper.

1.2. As concerns the principle of equal treatment, it shall be noticed that the complainant has not substantiated why he fears that the principle has not been respected. Furthermore, it appears that the complainant's written exam was marked by two members of the selection board, and upon appeal from the complainant, two more members reviewed the marking. In these circumstances, the Ombudsman finds that it is not justified to inquire



further into this allegation. **2 Access to the marked exam paper** 2.1. In the present state of Community law, it appears that there is no legal obligation for selection boards to disclose marked exam papers to the applicant concerned who requests so. On the other hand, there appears to be no obligation for selection boards to refuse disclosure. The question is thus whether principles of good administration require the administration to give access to marked exam papers. This question is the subject of the Ombudsman's on-going own initiative inquiry 1004/97/PD. The Ombudsman shall therefore not inquire further into this aspect of the present complaint. **3 Conclusion** On the basis of the European Ombudsman's inquiries into this complaint, there appears to have been no maladministration by the European Parliament. The Ombudsman has therefore decided to close the case. The President of the European Parliament will also be informed of this decision. Yours sincerely,  
Jacob SÖDERMAN