

Decision in case 1317/2018/LM on the European Personnel Selection Office excluding a candidate from a staff selection procedure for EU civil servants for not fulfilling the eligibility criteria

Decision

Case 1317/2018/LM - Opened on 20/09/2018 - Decision on 19/02/2019 - Institution concerned European Personnel Selection Office (No maladministration found) |

The complainant took part in a recruitment procedure for EU civil servants organised by the European Personnel Selection Office (EPSO). The complainant turned to the Ombudsman complaining that EPSO had not assessed his professional experience correctly.

The Ombudsman found that the complainant's professional experience had been assessed in relation to the duties of the posts to be filled, which was entirely reasonable. Therefore, the Ombudsman closed the inquiry with a finding of no maladministration. However, the Ombudsman suggested that EPSO takes steps to ensure that professional experience requirements are set out as clearly as possible.

Background to the complaint

1. The complainant participated in a selection procedure for the recruitment of EU civil servants as communication specialists [1] , organised by the European Personnel Selection Office (EPSO). In April 2018, EPSO informed him that he was not admitted to the next phase of the procedure because the 'selection board' [2] did not consider him to have at least six years professional experience in one of the fields listed [3] in the 'notice of competition' [4] .

2. The complainant requested a review of the decision to exclude him. He considered that he had more than six years of experience in one of the listed fields ('project management'). In June 2018, EPSO informed the complainant that the selection board maintained its previous decision because the complainant's professional experience did not *"sufficiently cover the scope of the duties"* .

3. Dissatisfied with EPSO's reply, the complainant turned to the Ombudsman in July 2018.



The inquiry

4. The Ombudsman opened an inquiry into the complainant's position that EPSO was wrong to exclude him from the selection procedure because his professional experience was deemed insufficient.
5. In the course of the inquiry, the Ombudsman's inquiry team met with EPSO and obtained clarifications regarding its assessment of the complainant's application.

Arguments presented to the Ombudsman

6. The complainant argued that he had more than six years of experience in project management, which is one of the fields of relevant experience listed in the notice of competition. The complainant has worked for several years as a scientific project officer and scientific researcher with project management responsibilities. Some of his responsibilities were related to communication of scientific research to the public.
7. EPSO explained that only project management *in the field of communication* was accepted as relevant professional experience, since the selection procedure aimed at recruiting communications specialists. The complainant primarily had experience in scientific project management.

The Ombudsman's assessment

8. Selection boards enjoy wide discretion in determining whether the qualifications and professional experience of a candidate correspond to the level required by the competition notice [5] . This means that the Ombudsman can put into question a decision by a selection board only in case of a manifest error of assessment [6] .
9. In this case, the selection board interpreted the professional experience required in light of the duties of the posts to be filled [7] . This approach is entirely in line with the case law of the EU Courts [8] . The complainant's main tasks as project manager seem to have been to provide scientific content, as demonstrated by the fact that his job titles were 'scientific researcher' and 'scientific project officer'. The duties of the posts to be filled were all related to communication. There is thus nothing to suggest a manifest error in the selection board's decision to exclude the complainant from a procedure aimed at selecting communications specialists.
10. However, although it was entirely reasonable to require project management experience to be related to the duties to be performed, the notice of competition could have been more clearly formulated. The Ombudsman will thus make a suggestion for improvement regarding the wording of professional experience requirements in notices of competition.
11. Furthermore, the Ombudsman considers that EPSO could have provided a slightly more



detailed reply to the complainant's request for review, which would have allowed him to understand why his professional experience was not accepted. As the clarity of EPSO's replies to candidates is an issue that the Ombudsman has come across in a number of inquiries, the Ombudsman is currently reflecting on how best to proceed with EPSO on this matter.

Conclusion

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

There was no maladministration by the European Personnel Selection Office in assessing the complainant's professional experience.

The complainant and EPSO will be informed of this decision.

Suggestion for improvement

The Ombudsman suggests that EPSO takes steps to ensure that professional experience requirements in notices of competition are drafted as clearly as possible.

Emily O'Reilly

European Ombudsman

Strasbourg, 19/02/2019

[1] Competition EPSO/AD/347/17, Notice of competition available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AC%3A2017%3A341A%3ATOC> [Link]

[2] Each selection procedure has a selection board, which is responsible for selecting candidates at each stage, based on pre-determined criteria, and drawing up the final list of successful candidates.

[3] See Point 3, page 3 of the Notice: *"Press agency, TV broadcaster, PR agency, a web company, journalism, communication consultancy, web and/or external communication in public or private organisations and project management."*

[4] The notice of competition sets out the criteria and rules applying to the selection procedure.



[5] Judgement of the Court of First Instance of 11 February 1999, *Mertens v Commission*, T-244/97, ECLI:EU:T:1999:27, paragraph 44.

[6] By analogy with, for example, judgment of 11 May 2005, *de Stefano v Commission*, T-25/03, ECLI:EU:T:2005:168, paragraph 34.

[7] See Annex I of the notice of competition.

[8] Judgement of the Court of First Instance of 14 July 2000, *Rui Teixeira Neves v. Court of justice*, T-146/99, ECLI:EU:T:2000:194, paragraph 34.