

Decision in case 938/2018/AMF on the appropriateness of questions asked in a job interview by the Fuel Cells and Hydrogen Joint Undertaking

Decision

Case 938/2018/AMF - Opened on 15/06/2018 - Decision on 25/02/2019 - Institution concerned Fuel Cells and Hydrogen 2 Joint Undertaking |

The case concerned the appropriateness of the questions allegedly asked during an interview for a position at the Fuel Cells and Hydrogen Joint Undertaking (the Joint Undertaking). According to the complainant, some questions were inappropriate because they concerned her age and family situation.

The Ombudsman found that, in the absence of any documentary evidence, it was not possible to determine what questions were asked during the interview. Nevertheless, the fact that the complainant perceived the interview questions as discriminatory was, in itself, a cause for concern. The Ombudsman therefore made a proposal for a solution to the Joint Undertaking that it include a provision in its internal recruitment procedures regarding the need to ensure that interview questions cannot be perceived as being discriminatory.

The Joint Undertaking accepted the Ombudsman's proposal for a solution. The Ombudsman welcomes the measures taken by the Joint Undertaking to address the issue and closes the inquiry.

Background to the complaint

1. The complainant applied for a job as communications officer [1] at the Fuel Cells and Hydrogen Joint Undertaking [2] (the Joint Undertaking). The complainant was selected for the last phase of the selection procedure, which consisted of a final interview with the Executive Director in May 2018.
2. According to the complainant, she was asked questions that were both inappropriate and discriminatory. In particular, she was allegedly asked whether, being in her mid-forties, she would be able to work with managers who are younger than her. She was also allegedly asked about her family situation and how her family would feel about moving to Brussels from another European capital.



3. After learning that she had not been selected for the job, but that she had been placed on a “reserve list” of applicants suitable for employment, the complainant expressed to the Joint Undertaking her concerns about the inappropriateness of the interview questions. She also stated that the decision not to employ her might be based on discriminatory considerations.

4. The Joint Undertaking replied to the complainant, thanking her for the feedback which would help it improve its recruitment procedures. It expressed regret at her perception of the situation. It stated that the Joint Undertaking *“always aims to create a positive atmosphere for all candidates”* and assured her that age or family situation did not impact on the Joint Undertaking’s decision not to give her the job.

5. As the complainant was not satisfied with the reply from the Joint Undertaking, she turned to the Ombudsman in May 2018.

6. The Ombudsman opened an inquiry into the complainant’s position that she had been asked inappropriate or discriminatory questions related to her age and family situation in the context of a job interview with the Joint Undertaking. The Ombudsman’s inquiry team asked the Joint Undertaking to address the complainant’s concerns and to provide the Ombudsman with a copy of its recruitment policy and, if possible, with a list of the questions asked during the interview with the Executive Director. The Ombudsman received the Joint Undertaking’s reply and also the complainant’s comments on that reply. The Ombudsman then made a proposal for a solution.

The Ombudsman's proposal for a solution

7. The complainant acknowledged that she had no concrete proof of which questions had been asked or of whether they affected the decision not to recruit her. Nevertheless, she was of the view that a potential prejudice about her age and family situation might have affected the decision. The complainant also believed that the questions that had been asked violated the principle of equal opportunities. The vacancy notice stated that the Joint Undertaking *“applies a policy of equal opportunity for men and women and accepts applications without distinction on grounds of sex, race, colour, ethnic or social origin, genetic characteristics, and language, religious, political or other convictions or opinions, financial situation, disability, age, sexual orientation, marital status or family situation.”*

8. In the context of the Ombudsman’s inquiry, the Joint Undertaking once again expressed regret about the complainant’s perception that she was asked discriminatory questions. The Joint Undertaking maintained its position that the complainant had not been asked any questions about her age or family situation.

9. The Joint Undertaking provided the Ombudsman with its “internal procedure on recruitment” which, it added, was currently being revised. However, the Joint Undertaking did not have a record of the interview questions. The Joint Undertaking stated that the Executive Director has



participated in ethics training and “*fully adheres to the principle of non-discrimination.*”

10. The Ombudsman found that in the absence of any documentary evidence, it was not possible to determine with certainty what questions had been asked during the interview. Nevertheless, the fact that the complainant perceived the interview questions as discriminatory was, in itself, a cause for concern.

11. The Charter of Fundamental Rights of the EU [3] , as well as the EU Staff Regulations [4] , prohibit age discrimination. The EU Staff Regulations also contain provisions striving to ensure full equality between men and women in the EU civil service. All staff selection procedures should thus be carried out in such a manner that there can be no doubt about the EU civil service fully adhering to these fundamental principles.

12. The Ombudsman noted that the Joint Undertaking had taken the complainant’s perception of the situation seriously and that it was committed to improving its procedures. The Ombudsman therefore made the following proposal for a solution to the Joint Undertaking in October 2018:

The Fuel Cells and Hydrogen Joint Undertaking should, in the context of the current revision of its internal procedures on recruitment, include a provision on the need to ensure that interview questions cannot be perceived as being discriminatory.

The Ombudsman's assessment after the proposal for a solution

13. In December 2018, the Joint Undertaking informed the Ombudsman that it agreed with her proposal to include a provision in its revised internal recruitment procedures on the need to ensure that interview questions cannot be perceived as being discriminatory. The revision of its internal recruitment procedures is ongoing and the updated draft contains the following provisions: “ *The various parties involved in the recruitment process shall act independently, in a transparent manner and above all respect the principles of equality and equity between the candidates. [...] Questions regarding personal life, religion, sexual orientation, family situation, etc. are not allowed as this could lead to discrimination. Should candidates disclose such information during the interview it cannot be taken into consideration during the evaluation of their suitability for the vacant post. [...] The Executive Director may decide to invite candidates for an informal interview before a decision on the successful candidate(s) is taken.[...]No question regarding personal life, religion, sexual orientation, family situation, etc. is permitted as it could lead to discrimination or be felt as such.* ”

14. The Ombudsman welcomes the fact that the Joint Undertaking agrees with her proposal. The complainant has made no comments on the Joint Undertaking’s reply.

Conclusion



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

The Fuel Cells and Hydrogen Joint Undertaking has accepted the Ombudsman's proposal for a solution.

The complainant and the Fuel Cells and Hydrogen Joint Undertaking will be informed of this decision.

Emily O'Reilly

European Ombudsman

Strasbourg, 25/02/2019

[1] FCH2JU/AST4/2018/02

[2] The Fuel Cells and Hydrogen Joint Undertaking is a public private partnership supporting research, technological development and demonstration activities in fuel cell and hydrogen energy technologies in Europe.

[3] Article 21, available at:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT> [Link].

[4] Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01962R0031-20140501> [Link]