

Decision of the European Ombudsman on complaint 88/99/BB against the European Parliament

Decision

Case 88/99/BB - Opened on 19/03/1999 - Decision on 27/03/2000

Strasbourg, 27 March 2000 Dear Mr K., On 27 January 1999 you made a complaint to the European Ombudsman concerning the European Parliament and the handling of your request for a review of the Selection Board's decision to reject your application for Open Competition EUR/A/127. On 19 March 1999, I forwarded the complaint to the President of the European Parliament. The Parliament sent its opinion on 7 June 1999 and I forwarded it to you with an invitation to make observations, if you so wished. On 18 August 1999, I received your observations on the Parliament's opinion. I am writing now to let you know the results of the inquiries that have been made.

THE COMPLAINT

On 3 June 1998, the complainant had applied for Open Competition EUR/A/127. On 1 October 1998 the Selection Board sent a letter explaining that his professional experience did not fulfil the requirements laid down in the Notice of Competition and that therefore he could not participate in the competition. The complainant pointed out that an applicant who considers that a mistake has been made in the examination of the applications can request a review of his/her application. Point V of the Notice of Competition provides for such a review. In point V of the Notice it is stated that the Selection Board will review the application and inform the applicant of its decision as soon as possible. The complainant had sent his letter requesting a review on 23 October 1998, but did not receive any reply from the Board. The complainant sent a telefax on 11 January 1999 to Mr. Junker who had signed the letter sent to him on 1 October 1999. During the same week the complainant sent an e-mail requesting information on the review of his application. He also attempted to reach Mr Junker by telephone but without success. Despite repeated requests Mr Junker did not return the complainant's telephone calls. The complainant claims that because of undue delay and negligence he has lost the opportunity to participate and to succeed in the above mentioned competition which was important for his career. He requests a review as soon as possible.

THE INQUIRY

The Parliament's opinion In its opinion the Parliament made the following points: By letter of 1st October 1998, the Selection Board informed the complainant of his non-admission to the competition on the basis that he did not have the professional experience required, as indicated in the Notice of Competition. By letter of 23 October 1998, the complainant appealed against



this decision. The Selection Board, at its meeting in Brussels at the end of the month of November, examined a number of requests to re-consider applications for the competition in question, including the complainant's letter. In the complainant's case, the Selection Board decided to maintain its initial decision for the same reason. The letter confirming the decision not to admit him was sent on 26 January 1999, the decision being justified by reference to the text of the Notice of Competition which stipulated the exact nature of the qualification required for admission to the competition. Regarding the timing of the letter of confirmation, it should be noted that, in those cases where the Selection Board - on the basis of a request to re-consider an application - decided to admit the candidate, those concerned were immediately informed and invited to take part in the written tests which were organised on 27 and 28 January 1999. In the period immediately preceding and following the office closing days of the Christmas and New Year holidays, priority was given to the onerous task of translating, verifying and reproducing the texts of these tests in the eleven official languages. As a consequence, the letters confirming the non-admission could only be sent out immediately prior to the written tests, on 26 January 1999. The Parliament regretted that the letters confirming non-admission could not be sent out earlier. In future Parliament's services will do their utmost, within the constraints of a zero-growth staff-plan, to ensure that letters of this nature are sent out as soon as possible after the relevant decision of the Selection Board. **The complainant's observations** The complainant maintained his complaint. He pointed out that he had never received the letter mailed 26 January 1999. According to the complainant, the delay in informing the candidates cannot be considered appropriate knowing that the Parliament had dealt with the appeals already in November 1998. The complainant is of the view that selection boards should in the future consider whether letters should be sent as registered mail or whether there are other means to guarantee receipt of letters sent by the Parliament.

FURTHER INQUIRIES

On 21 October 1999, the Ombudsman sent the complainant a copy of the Parliament's letter sent on 26 January 1999 asking for further observations from the complainant. However, the complainant has not sent any further observations.

THE DECISION

1 The alleged lack of reply to the complainant's correspondence and phone calls 1.1 The complainant claims that despite repeated requests by correspondence and telephone calls made in January 1999 he did not receive a reply from the Selection Board regarding his request for a review. 1.2 The Parliament has sent a letter on the 26 January 1999 informing the complainant of the Selection Board's decision. 1.3 The Ombudsman's inquiries therefore revealed no maladministration in relation to this aspect of the case. **2 The alleged delay and negligence regarding the handling of the complainant's request for a review** 2.1 The complainant claims that there has been undue delay and negligence in the handling of his request for a review. He requested a review of his application on 23 October 1998, but did not receive any decision from the Board. 2.2 In its opinion the European Parliament stated that the Selection Board, at its meeting in Brussels at the end of the month of November, examined a number of requests to re-consider applications to the competition in question, including the complainant's letter. In case of the complainant, the Selection Board decided to maintain its initial decision for the same reason. According to the Parliament, in the period immediately



preceding and following the office closing days of the Christmas and New Year holidays, priority was given to the onerous task of translating, verifying and reproducing the texts of these tests in the eleven official languages. As a consequence, the letters confirming the non-admission could only be sent out immediately prior to the written tests, on 26 January 1999. 2.3 The Parliament regretted that the letters confirming non-admission could not be sent out earlier. In future Parliament's services promised to do their utmost to ensure that letters of this nature are sent out as soon as possible after the relevant decision of the Selection Board. 2.4 The Ombudsman observes that according to Point V of the Notice of Competition the Selection Board will review an application and inform the applicant of its decision as soon as possible. Principles of good administrative behaviour require that the Parliament's services ensure that a decision on a request for a review is taken within a reasonable time limit, without delay. The Ombudsman notes that there was a delay of over three months before the Parliament sent a decision to the complainant's request for a review. Therefore, the fact that the Parliament did not inform the complainant about the decision within a reasonable time limit constituted an instance of maladministration. **3 Conclusion** On the basis of the European Ombudsman's inquiries into this complaint, it is necessary to make the following critical remark: The Ombudsman observes that according to Point V of the Notice of Competition the Selection Board will review an application and inform the applicant of its decision as soon as possible. Principles of good administrative behaviour require that the Parliament's services ensure that a decision on a request for a review is taken within a reasonable time limit, without delay. The Ombudsman notes that there was a delay of over three months before the Parliament sent a decision to the complainant's request for a review. Therefore, the fact that the Parliament did not inform the complainant about the decision within a reasonable time limit constituted an instance of maladministration. Given that this aspect of the case concerns procedures relating to specific events in the past, it is not appropriate to pursue a friendly settlement of the matter. The Ombudsman therefore closes the case. The President of the European Parliament will also be informed of this decision. Yours sincerely, Jacob SÖDERMAN