



Decision of the European Ombudsman on complaint 457/99/IP against the European Parliament

Decision

Case 457/99/IP - Opened on 06/05/1999 - Recommendation on 27/07/2000 - Decision on 11/05/2001

Strasbourg, 11 May 2001

Dear Mr A.,

On 28 April 1999, you lodged a complaint with the European Ombudsman against the European Parliament, about your participation in open competition EUR/C/135 organised by the European Parliament.

One of your claims concerned the Selection Board's refusal to allow you access to a marked copy of your examination.

THE DRAFT RECOMMENDATION

On 27 July 2000, in accordance with Article 3 (6) of the Statute of the European Ombudsman (1), following an inquiry into the complaint in which he considered that the Parliament's refusal to give the complainant copy of his own examination papers constituted an instance of maladministration, the Ombudsman addressed the following draft recommendation to the Parliament:

The Parliament shall allow the complainant to have access to his own marked examination papers

Full details of the inquiry are provided in the draft recommendation of 27 July 2000, a copy of which was forwarded to the complainant.

THE PARLIAMENT'S DETAILED OPINION

The Ombudsman informed the Parliament that according to Article 3 (6) of the Statute, the institution should send a detailed opinion before 31 October 2000 and that the detailed opinion could consist of the acceptance of the Ombudsman's draft recommendation and a description of how it would be implemented.

On 27 November 2000, the Parliament transmitted its detailed opinion to the Ombudsman. It explained that the institution has accepted the principle to allow candidates to have a copy of their own marked examination test, and intends to implement it in the following stages:

"For all competitions published from 1 January 2001, candidates will receive a copy of their own multiple choice tests, upon written request.

For all competitions published from 1 July 2001, candidates who have failed a written test, will



receive a copy of the correction grid of their exam elaborated by the Selection Board, upon request.

An evaluation of the practical impact of the new rules will be carried out at the end of 2001, and a possible third stage would be considered, if necessary"

(Translated by the Ombudsman's services)

The complainant's observations on the Parliament's detailed opinion

The Parliament's detailed opinion was forwarded to the complainant on 28 November 2000 and on 4 December 2000 he sent his observations to the Ombudsman.

The complainant underlined the important role played by the Ombudsman in this matter and stressed that thanks to his efforts the Parliament had finally accepted to improve transparency in its recruitment procedure allowing candidates, who so wish, to receive a copy of their marked examination papers. However, he expressed his concerns regarding the fact that the new rules would be in force only for competitions published from 1 January 2001 and that the Parliament did not reply specifically to his request.

Further inquiries

After examination of the Parliament's detailed opinion and of the complainant's observations, the Ombudsman considered that it was necessary to recall the substantial part of the draft decision to the Parliament (2). He therefore addressed a further letter to the institution on 8 February 2001. On the one hand, he welcomed the Parliament's decision to accept the principle to allow candidates to have access to their own marked examination paper. On the other hand, however, he noted that the Parliament had not dealt with the specific recommendation made by the Ombudsman to give a copy of his own marked papers to the complainant.

Since the Parliament failed to do so, and since the Ombudsman considered that it would be possible for the institution to comply with the recommendation, he asked the Parliament to deal with it, accepting the complainant's request.

The Ombudsman recalled in his letter that, on 27 July 2000, the Parliament's Legal Service gave a legal opinion on certain matters relating to the open competition procedures of the Community institutions. It stressed that, in the absence of the arrangements concerning the competition procedures adopted by the Community institutions and providing appropriate rules for access to marked scripts, it is not possible, in principle, to deny access to his/her own marked scripts to a candidate in a competition who requests such access.

Furthermore, the Ombudsman referred to the report drafted by MEP Herbert Bösch and adopted on 12 October 2000 by the European Parliament's Committee on Petitions, in which it endorsed his Special Report to the European Parliament, following the own initiative inquiry into the secrecy which forms part of the Commission's recruitment procedures.

The Ombudsman finally pointed out that on 17 November 2000, the European Parliament voted to approve the resolution on the Ombudsman's Special Report of 18 October 1999 which included the recommendation that "in its future competition, at the latest from 1 July



2000 onwards, the Commission should give candidates access to their own marked examination scripts upon request". In its resolution, the Parliament recommended that candidates should have access to their marked examination papers and called on all the institutions and bodies of the European Union to follow the example of the European Commission.

On the basis of the above findings, the Ombudsman invited the Parliament to address the draft recommendation mentioned above.

On 5 April 2001, the Ombudsman received the Parliament's reply to his letter of 8 February 2001. The Parliament underlined that the Selection Board of the competition in question had concluded its work on 21 October 1999, and that the only available opinion was the one expressed in its final note. However, the institution informed the Ombudsman of its acceptance of the Ombudsman's draft recommendation and that it has instructed the competition services to forward a copy of his original examination papers to the complainant.

The Parliament also informed that the competition services are ready to forward a copy of their own marked examination papers to any candidate who will ask for.

THE DECISION

On 27 July 2000, the Ombudsman addressed the following draft recommendation to the European Parliament:

The Parliament shall allow the complainant to have access to his own marked examination papers.

On 5 April 2001, the Ombudsman received the Parliament's reply to his letter of 8 February 2001. The Parliament underlined that the Selection Board of the competition in question had concluded its work on 21 October 1999, and that the only available opinion was the one expressed in its final note. However, the institution informed the Ombudsman of its acceptance of the Ombudsman's draft recommendation and that it has instructed the competition services to forward a copy of his original examination papers to the complainant.

The Parliament also stated that its competition services are ready to supply a copy of their own marked examination papers to candidates who so request.

The measures described by the Parliament appear to be satisfactory and the Ombudsman therefore closes the case.

The President of the European Parliament will also be informed of this decision.

Yours sincerely,



Jacob SÖDERMAN

(1) Decision 94/262 of 9 March 1994 of the European Parliament on the Regulations and General Conditions Governing the Performance of the Ombudsman's Duties, OJ 1994 L 113/15.

(2) "The Parliament shall allow the complainant to have access to his own examinations papers".