

Decision of the European Ombudsman on complaint 718/99/GG against the Court of Justice of the European Communities

Decision

Case 718/99/GG - Opened on 28/06/1999 - Decision on 26/10/1999

Strasbourg, 26 October 1999 Dear Mrs T., On 21 June 1999 you lodged a complaint with the European Ombudsman against the Court of Justice of the European Communities concerning your exclusion from Competition CJ/LA/29. On 28 June 1999 I forwarded the complaint to the Court of Justice for its comments. The Court of Justice sent its opinion on 20 September 1999, and I forwarded it to you with an invitation to make observations, if you so wished. On 12 October 1999, you sent me your observations on the Court of Justice's opinion. I am writing now to let you know the results of the inquiries that have been made.

THE COMPLAINT

The complainant has both British and Canadian citizenship. She holds a Canadian LLB and is qualified as a Barrister and Solicitor in Canada. She also holds an LLM in European law from the EIPA in Luxembourg. Furthermore the complainant has an undergraduate degree in translation. In 1998, she applied to be admitted to Competition CJ/LA/29 organised by the Court of Justice with a view towards the recruitment of lawyer-linguists of English mother tongue. The application was rejected on 28 April 1999 on the ground that the applicant did not possess the requisite legal qualifications. The notice of the competition concerned stipulated that a candidate needed (a) to have "a degree of law awarded in the United Kingdom or Ireland" entitling the holder (in so far as England was concerned) to exemption from the common professional examination *or* (b) to be qualified as an advocate, barrister or solicitor in the United Kingdom or Ireland. The complainant claims that the Court of Justice has interpreted the notice too narrowly. According to the complainant, the Canadian legal system is derived directly from the English one and is even closer to the English system than Scottish law. She claims that her Canadian law degree is fully recognised in England. She also refers to her LLM in European law and the unusual fact that she also possesses a degree in translation.

THE INQUIRY

The complaint was sent to the Court of Justice for its comments. **The opinion of the Court of Justice** In its opinion, the Court of Justice made the following comments with regard to the complaint: According to Article 22 of the Rules of Procedure of the Court of Justice, the Court shall set up a translating service staffed by experts with adequate legal training and a thorough knowledge of several official languages of the Court. At a very early stage, the Court had taken



the view that its needs were best served by recruiting for this purpose persons ("lawyer-linguists") with a thorough knowledge of the legal system of the Member State(s) into whose language they translate, and of the legal terminology of that system, as evidenced by an appropriate legal qualification. In the case of the English Translation Division, the Member States concerned were the United Kingdom and Ireland. The notice for the competition concerned required from the candidates completion of a course in law evidenced *either* by a degree in law (as specified in more detail in the notice) awarded in the United Kingdom or Ireland *or* by qualification as an advocate, barrister or solicitor in the United Kingdom or Ireland. The complainant had not fulfilled these conditions on the final date for receipt of applications. She held a Canadian law degree, not a UK or Irish one. On the basis of the documents which had been submitted by the complainant and which concerned the steps taken by the latter to qualify as a solicitor in England and Wales, it had been clear that she had not yet passed the Professional Conduct and Accounts paper of the Qualified Lawyers Transfer Test and thus had not qualified as a solicitor in the UK on the relevant date. In any event, the Selection Board was bound by the wording of the notice as published and thus had to refuse to admit the complainant to the competition. **The complainant's observations** In her observations, the complainant maintained her complaint. She claimed that the test which she still needed to pass in order to qualify as a solicitor in the UK, consisted of a simple exam on accountancy and ethics. In her view, this had nothing to do with the "knowledge of the law of the Member State" which was required. The complainant also made what appear to be new allegations. She questioned whether the barrister or solicitor requirement was relevant to the lawyer-linguist position at all. According to the complainant, what was important was knowledge of the law, not a track record in legal practice. The complainant also claimed that the Court should include in the notice for the present or for future competitions words like "or other qualifications as the Selection Board may deem appropriate".

THE DECISION

1 Introductory remarks 1.1 In her comments of 12 October 1999 on the Court of Justice's opinion on her complaint, the complainant appears to make new allegations. The Ombudsman considers, however, that there is no need to inquire into these allegations in this decision since they can be interpreted as variations of the main argument put forward by the complainant, i.e. the claim that the Court of Justice should not have interpreted its notice for the competition concerned literally but also have admitted candidates who fulfilled the material criteria even though they failed to match the formal requirements. **2 Unfair exclusion from competition** 2.1 The complainant alleges that the Court of Justice of the European Communities unfairly excluded her from Competition CJ/LA/29 by interpreting the notice for the competition too narrowly. 2.2 The Court of Justice claims that the complainant did not fulfil the conditions required by the notice for the competition and that the Selection Board was bound by the wording of the notice. 2.3 The notice for the competition concerned required from the candidates completion of a course in law evidenced either by a degree in law (as specified in more detail in the notice) awarded in the United Kingdom or Ireland or by qualification as an advocate, barrister or solicitor in the United Kingdom or Ireland. It appears that the complainant had not passed the Professional Conduct and Accounts paper of the Qualified Lawyers Transfer Test and therefore had not qualified as a solicitor in the UK on the relevant date. As this was the requirement laid down in the notice of the competition there appears to have been no



maladministration in this case. **3 Conclusion** On the basis of the European Ombudsman's inquiries into this complaint, there appears to have been no maladministration on the part of the Court of Justice of the European Communities. The Ombudsman therefore closes the file. The President of the Court of Justice will also be informed of this decision. Yours sincerely Jacob SÖDERMAN