

Decision of the European Ombudsman concerning complaint 1988/2019/KR against the European Commission

Decision

Case 1988/2019/KR - **Opened on** 27/11/2019 - **Decision on** 27/11/2019 - **Institution concerned** European Commission (No maladministration found) |

Dear Ms X,

On 29 October 2019, you submitted a complaint to the European Ombudsman against the European Commission concerning its decision not to hire you as a contract agent following the outcome of a medical examination. The Ombudsman has asked me to deal with your complaint and reply to you on her behalf.

You challenged this decision. In that context, the Commission convened a medical committee of three doctors. On 18 October 2019, you received from the Commission the medical committee's final report confirming the initial medical examination. In your complaint, you state that you do not agree with this outcome.

I would first like to express my understanding of how stressful this situation must be for you personally.

After a careful analysis of all the information submitted to me, however, I am sorry to have to inform you that I do not find that the Commission's decision amounts to maladministration.

The European Ombudsman is not a medical body and it cannot assess the merits of medical examinations. The Ombudsman can look at administrative matters only, meaning that it can only examine in your case whether procedural errors occurred or not.

From the information you submitted, I understand that the applicable procedure, as stipulated in Article 33 of the Staff Regulations, was conducted correctly.

On your request, the negative medical opinion that was the result of the medical examination was reviewed by a medical committee made up of three doctors, two of whom work for other EU institutions. You were allowed, as set out in that procedure, to refer the opinion of a doctor of your choice to the medical committee. The committee heard the Commission's doctor who was



responsible for the original medical examination. The Committee also heard you in the company of your doctor. It also took note of your further observations. It also heard your doctor.

I do not identify any procedural error.

The European Ombudsman cannot take a view on a question of medical science. She therefore cannot comment on the result of the medical examination.

I also note that the Commission is required to follow the opinion of the medical committee, be that opinion positive or negative. As a result, I must consider that the Commission's decision to follow the outcome of the medical examination does not amount to maladministration.

I understand that this might not be your desired outcome. I do hope you find the above explanations useful. Again, let me express my understanding as regards how stressful this situation must be for you personally.

Yours sincerely,

Fergal Ó Regan

Head of Inquiries - Unit 2

Strasbourg, 27/11/2019