

Decision in case 426/2019/NH on how the Executive Agency for Small and Medium-sized Enterprises assessed an application in a staff selection procedure

Decision

Case 426/2019/NH - Opened on 21/11/2019 - Decision on 30/04/2020 - Institution concerned European Innovation Council and SMEs Executive Agency |

The case concerned the way in which the Executive Agency for Small and Medium-sized Enterprises (EASME) assessed the complainant's application in a selection procedure for the recruitment of a project adviser.

The Ombudsman inquired into the issue and found nothing to suggest a manifest error in the selection committee's assessment of the complainant's qualifications and professional experience. The Ombudsman therefore closed the inquiry with a finding of no maladministration.

Background to the complaint

1. The complainant participated in a staff selection procedure organised by the Executive Agency for Small and Medium-sized Enterprises (EASME) to recruit a project adviser [\[1\] \[Link\]](#).
2. In December 2018, EASME informed the complainant that her application had been unsuccessful. The complainant asked EASME to review its decision not to invite her to the next phase of the selection procedure. The complainant also asked EASME to inform her about the score given to her application, as well as the reasons why her application was unsuccessful, as she believed that her education and professional experience were more than sufficient.
3. In January 2019, EASME informed the complainant that the selection committee had reviewed her file and that it had not found any mistake in the assessment of her application. Therefore, it had confirmed its decision not to admit the complainant to the next phase in the selection procedure. EASME informed the complainant about the total score given to her application, which was below the threshold that the selection committee had set for applications to be admitted to the next phase of the procedure.
4. In February 2019, the complainant asked EASME for a copy of the document setting out the assessment of her application. EASME provided the complainant with the scores given to her



application for each selection criterion. EASME said that this was all the information it could give the complainant because of the secrecy of selection proceedings set out in the EU Staff Regulations [2] .

5. Dissatisfied with the outcome of the review and with EASME's explanations, the complainant turned to the Ombudsman in March 2019.

The inquiry

6. The Ombudsman opened an inquiry into the complainant's concerns about how EASME had assessed her qualifications and professional experience in the selection procedure.

7. In the course of the inquiry, the Ombudsman's inquiry team met with EASME and inspected EASME's file on the matter.

Arguments presented to the Ombudsman

8. The complainant argued that EASME did not assess her application correctly. She contended that the score the selection committee gave her application was too low and did not reflect her education and professional experience of more than 20 years in the field.

9. In the meeting with the Ombudsman's inquiry team, EASME said that the selection committee scored the applications received through a comparative assessment. Before starting the assessment, the selection committee had agreed on the methodology for scoring the applications against the selection criteria set out in the call for expression of interest. It had also decided on the threshold for candidates to be invited to the next step.

10. EASME said that the selection committee gave each application a score based on relevant professional experience **and relevant education or training** , meaning specific academic curricula or formal training in the relevant field. EASME stated that the selection committee had decided not to give the complainant the full score for certain selection criteria as she had not explicitly mentioned in her application that she had specific education or formal training in the fields related to the call for expression of interest.

The Ombudsman's assessment

11. The selection committee was bound by the selection criteria that were set out in the call for expression of interest for the selection procedure. At the same time, the selection committee had a wide margin of discretion in assessing a candidate's qualifications and professional experience against the selection criteria [3] [\[Link\]](#). The margin of discretion of the selection committee means that the Ombudsman can question the assessment only in case of a manifest error [4] [\[Link\]](#).



12. The criteria listed in the call for expression of interest aimed at selecting the candidates whose profiles best match the duties to be performed. To make that choice, the selection committee first established a methodology for scoring and a scoring grid. This falls entirely within the selection committee's discretion.

13. The documents and explanations given to the Ombudsman's inquiry team during the inspection meeting with EASME do not indicate any manifest error of assessment of the complainant's application by the selection committee. In particular, the Ombudsman is satisfied that the scores given to the complainant's application for her professional experience and education are in line with the scoring grid established by the selection committee.

14. The complainant's personal belief about the relevance of her profile cannot replace the selection committee's assessment and does not constitute evidence of a manifest error by the selection committee [\[5\]](#) [\[Link\]](#).

15. On the basis of the above, the Ombudsman finds no maladministration by EASME in the assessment of the complainant's application.

Conclusion

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

The Ombudsman finds no maladministration by EASME in the assessment of the complainant's application.

The complainant and EASME will be informed of this decision .

Emily O'Reilly

European Ombudsman

Strasbourg, 30/04/2020

[\[1\]](#) [\[Link\]](#) Call for expression of interest EASME/IV/2018/042.

[\[2\]](#) [\[Link\]](#) Article 6 of Annex III to the 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> [\[Link\]](#).



[3] [\[Link\]](#) Judgment of the Court of First Instance of 11 May 2005, *De Stefano v [Link] Commission* , case T-25/03, paragraph 34.

[4] [\[Link\]](#) See, by analogy, the judgment of the Court of First Instance of 31 May 2005, *Gibault v [Link] Commission* , case T-294/03, paragraph 41.

[5] [\[Link\]](#) Judgment of the Court of First Instance of 23 January 2003, *Angioli v [Link] Commission* , case T-53/00, paragraph 94.