

Decision in case 1468/2020/SF on how the European Personnel Selection Office (EPSO) dealt with complaints about points awarded to a candidate in the field-related interview in a selection procedure for armed security officers

Decision

Case 1468/2020/SF - Opened on 15/10/2020 - Decision on 15/10/2020 - Institution concerned European Personnel Selection Office (No maladministration found) |

Background

1. The complainant participated in a staff selection procedure [1] organised by the European Personnel Selection Office (EPSO) to recruit armed security and protection officers to the EU institutions.
2. EPSO informed the complainant that he did not receive the pass mark in the field-related interview [2] and that he could therefore not be included on the reserve list of successful candidates from which the EU institutions can recruit.
3. The complainant requested a review of the selection board's [3] assessment of his performance in the interview. He argued that the assessment was incorrect and that the reasons the selection board gave in his 'competency passport' [4] were too vague and did not correspond with his answers, his education and his professional experience.
4. The selection board re-examined the evaluation of the complainant's competencies and reviewed his marks. It confirmed that there had been no mistake in the scoring process and that the results in the complainant's competency passport were correct.
5. The complainant requested the interview recordings to prove that his answers were not assessed correctly. EPSO informed him that it did not record the interviews.

The complaint to EPSO



The complainant's arguments

6. The complainant then made an administrative complaint to EPSO [5] . He argued that his marks in the field-related interview were based on a *'false and incorrect evaluation of [his] qualifications'* and he listed his recollection of the questions, of his answers and of the selection board's reaction to those during the field-related interview. The complainant considered that the comments in his competency passport did not correspond to his answers. He also claimed that they were too vague and would not allow for judicial review.

7. The complainant argued that the selection board had violated the Charter of Fundamental Rights of the European Union and the European Code of Good Administrative Behaviour in the review procedure and that there could not have been a substantive review of his performance, as the interview had not been recorded.

8. According to the complainant EPSO had misinformed him in its reply to his review request by citing selective passages of EU case-law. He claimed that EPSO made him believe that he had no right to challenge the selection board's decision. He considered that his answers to the questions in the field-related interview are objective evidence that there was a manifest error of assessment by the selection board.

9. The complainant further claimed that EPSO misinformed him concerning the scope of the selection board's discretion. He argued that the discretion was limited by the notice of competition [6] . As the notice of competition stated that the talent screener would be used as a reference document in the field-related interview, the selection board should have properly assessed his educational and professional qualifications. It should also have allowed him to declare more recent professional experience that he could not declare in the talent screener.

EPSO's response to the complainant

10. EPSO re-examined the evaluation sheets and observations drawn up by the selection board, including the handwritten notes. It confirmed, again, that there was no indication of errors in the assessment or mistakes in the scoring process.

11. EPSO said that the selection board's assessment of the candidates' performance in the field-related interview is of a comparative nature [7] and based on the answers that the candidates' give orally during the interview. Candidates cannot invoke their professional experience or academic qualifications to challenge the selection board's assessment of their performance in a test [8] . Information given in the talent screener can be used by the selection board to orient the questions and to give context but cannot be used as a basis for the assessment of the test.

12. EPSO further said that the obligation to state reasons for decisions in a selection procedure must be reconciled with the confidentiality of the selection board's proceedings. Communication of the marks obtained is an adequate justification of the selection board's decision [9] , allowing



for judicial review [10] . The competency passport is meant to give a global overview as well as the main findings of the selection board's assessment while protecting the confidentiality of the proceedings.

13. EPSO said that the selection board's assessment is a value judgement and as such it is not subject to judicial review unless the candidate can show a manifest error of assessment [11] . A candidate's personal conviction as to how they should have been evaluated does not constitute irrefutable evidence of a manifest error [12] .

14. When EPSO did not reply to the complainant within the deadline [13] , he turned to the Ombudsman in August 2020. EPSO replied a few days later. Dissatisfied with this reply, the complainant asked the Ombudsman to look into it, maintaining the arguments put forward in his administrative complaint.

The European Ombudsman's findings

15. EPSO has given a comprehensive reply to the complainant's administrative complaint, correctly referring to the relevant paragraphs of EU case-law.

16. In its reply, EPSO correctly stated that the selection board's wide margin of discretion means that its assessment can only be questioned in case of a manifest error, and that the candidates' own view on how they performed in a test is not evidence of a manifest error of assessment. EPSO also correctly said that, in the field-related interview, the selection board assesses the candidates' answers, not their CV.

17. EPSO informed the complainant of his score in the field-related interview. By doing this, EPSO complied with its duty to state reasons.

18. EPSO is not required to keep an audio recording of the interviews. When assessing the complainant's review request and his administrative complaint, the selection board and EPSO reviewed the documentation from the field-related interview, including the evaluation sheets, observations and the handwritten notes of the selection board.

19. On the basis of the above, the Ombudsman finds no indication of a procedural error or manifest error of assessment. The case is thus closed with a finding of no maladministration. [14]

Tina Nilsson Head of the Case-handling Unit

Strasbourg, 15/10/2020



[1] [EPSO/AST-SC/07/18](#) [\[Link\]](#)

[2] The field-related interview is a test designed to evaluate some or all of the competencies inherent to the duties required for a specific profile, as set out in the notice of competition (see footnote 6).

[3] The selection board is responsible for selecting candidates at each stage of the selection procedure and for drawing up the final list of successful candidates.

[4] The competency passport is a written document given to all (successful and unsuccessful) candidates after the assessment centre stage of the selection procedure. It consists of (1) a general description of the competency framework; (2) a global overview of the candidate's strengths and weaknesses; and (3) a description per competency of the main findings.

[5] Section 4.3.1 of the [notice of competition](#) [\[Link\]](#) states that candidates may submit an administrative complaint against a decision that directly and immediately affects their legal status as candidates.

[6] The notice of competition contains a full description of the profile sought, the minimum requirements as regards education (and sometimes work experience) and indicates the tests and other assessment exercises that will take place during the selection procedure.

[7] Case T-293/02, *Vrancks/Commission*, paragraph 53

[8] Cases T-72/01, *Pyres v. Commission*, paragraphs 34-35; T-153/95, *Kaps v Court of Justice*, paragraphs 50 and 54

[9] C-254/95, *Parliament v Innamorati*, paragraphs 30-31; F-127/11, *De Mendoza/Commission*, paragraph 94

[10] F-127/11 *De Mendoza/Commission*, paragraph 95

[11] F-127/02, *Coto Moreno v Commission*, paragraph 33

[12] T-17/90, T-28/91 and T-17/92, *Camara Alloisio e.a. v Commission*, paragraph 90; T-46/93, *Michael-Chiou v Commission*, paragraph 50 ; T-53/00, *Angioli v Commission*, paragraph 94

[13] EPSO's acknowledgement of receipt states that the complainant should receive a reply within four months. A failure to reply means an implicit rejection allowing the complainant to turn to the Ombudsman.



[14] This complaint has been dealt with under delegated case handling, in accordance with Article 11 of [the Decision of the European Ombudsman adopting Implementing Provisions](#) [Link]