

Decision in case 1342/2020/MAS on the European Commission's exclusion of a candidate from the selection procedure for its Junior Professionals Programme

Decision

Case 1342/2020/MAS - Opened on 25/11/2020 - Decision on 25/11/2020 - Institution concerned European Commission (No maladministration found) |

Background

1. The complainant is a German national who applied to the European Commission's Junior Professionals Programme (JPP). Successful candidates are recruited by the Commission as 'temporary agents' [1] and they go through an extensive training programme. One of the eligibility criteria for the programme is that applicants cannot have more than three years of work experience.
2. The complainant was enrolled in a PhD programme at a Dutch university at the same time as he had a remunerated position at the university. His working time was 38 hours per week for 39.5 months (3.3 years). According to a certificate from the university, which the complainant provided to the Commission, 20% of his working time was devoted to teaching and 80% of his working time was devoted to research. In his application for the JPP, the complainant listed his PhD studies under 'Professional Experience'.
3. The Commission's selection board [2] for the JPP excluded the complainant from the selection procedure. It considered that the complainant had more than three years of previous work experience.

The complaint to the European Commission

The complainant's arguments

4. The complainant made an administrative complaint to the Commission against the decision to exclude him from the selection procedure. [3] He argued that the selection board failed to



distinguish between periods of training and periods of study, as required by the call for expression of interest for the JPP. He was also concerned that the selection board's decision to consider his position at the university as full-time professional experience could be discriminatory. He said that it is normal for PhD students from the Netherlands to have a full-time contract during their PhD studies, while in other EU Member States, such as Germany, it is common for PhD students to have part-time positions (60 to 70% working time), in which they perform tasks comparable to the full-time positions at Dutch universities. The complainant further argued that counting as work experience PhD studies that are relevant to the type of post that the complainant applied for favoured candidates with less relevant experience.

The European Commission's response to the complainant

5. The Commission upheld the selection board's decision to exclude the complainant from the selection procedure for the JPP. The Commission said that selection boards have a wide margin of discretion when assessing the professional experience of candidates. In dealing with the complainant's administrative complaint, the Commission was therefore limited to verifying that the selection board had made no manifest errors.

6. Regarding the assessment of whether the complainant's PhD studies should be counted as professional experience, the selection board had taken into account the nature of the work as described in the documents that he had provided as part of his application. According to case-law, research can be counted as professional experience, even if it further develops an applicants' training and enables them to obtain the qualification of doctor. [4]

7. The fact that PhD students from other EU Member States with different working arrangements are treated differently is not discriminatory, as the selection board examines every candidate's work experience on an individual basis.

8. The conditions set out in the call for expression of interest for the JPP must be strictly applied. The fact that the complainant's work experience may be more relevant than that of other candidates to the type of post that the complainant applied for does not put into question the validity of the eligibility criteria of the JPP. The JPP is a specific programme for candidates with very limited work experience.

9. The complainant was not satisfied with the Commission's reply to his administrative complaint and therefore turned to the Ombudsman, in August 2020. He argued in particular that the Commission had not properly addressed his argument that there is unequal treatment between PhD students from the Netherlands and other EU Member States. He argued that the Commission should set an age limit for applicants instead of limiting the years of work experience.

The European Ombudsman's findings



10. Based on the information provided by the complainant, there is nothing to suggest that the selection board made a manifest error in its assessment of the complainant's PhD studies. The complainant did not prove that he used part of the working time at the university for his PhD studies. The certificate he provided to the Commission does not show that a specific amount of working time was devoted to his PhD studies, but it only refers to 'research' in general. Moreover, the complainant did not list his PhD studies in the section 'Training and Education' but declared it in the section 'Professional Experience' of his application.

11. Regarding the complainant's argument that he was discriminated against compared to PhD students from other EU Member States, the principle of non-discrimination means that like situations should not be treated differently and different situations should not be treated the same, unless there is a legitimate reason to do so.

12. The fact that the Commission decided to include an eligibility criterion for the JPP which limits the number of years of previous work experience is not discriminatory. The JPP aims to recruit people who are at the beginning of their careers. This is a legitimate interest for the Commission and the eligibility criterion in question is an objective way to achieve this aim. As a consequence, certain candidates who may have work experience that could be beneficial to the Commission will inevitably be excluded from the JPP.

13. Nor has the complainant put forward any evidence to suggest that the selection board applied the work experience criterion in a discriminatory manner. The selection board's approach to assess the actual work experience of each individual candidate based on the documents that the candidate provided should ensure that no individual candidate, or group of candidates, is discriminated against. By contrast, an age limit for candidates would be discriminatory under the Charter of Fundamental Rights of the EU. [5]

14. Based on the above, the Commission's decision to exclude the complainant from the JPP selection procedure was justified.

Conclusion

15. Based on the information provided by the complainant, the Ombudsman finds **no maladministration in this case**. [6]

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Head of the Case-handling Unit

Strasbourg, 25/11/2020



[1] Temporary agents perform highly specialised tasks and can be hired for a limited time by the European institutions.

[2] Each selection procedure has a selection board, which is responsible for selecting candidates at each stage, based on pre-determined criteria, and drawing up the final list of successful candidates.

[3] Under Article 90(2) of 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://data.europa.eu/eli/reg/1962/31\(1\)/2014-05-01](http://data.europa.eu/eli/reg/1962/31(1)/2014-05-01) [Link].

[4] With reference to the Judgment of the European Civil Service Tribunal of 22 May 2008, *Garcia vs Commission*, F-145/06, [ECLI:EU:F:2008:65](http://eur-lex.europa.eu/legal-content/EN/JOIN/?uri=CELEX:2008:65:1-1) [Link], paragraph 70.

[5] Article 21, http://data.europa.eu/eli/treaty/char_2012/oj [Link].

[6] 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].