

Decision of the European Ombudsman on complaint 791/2000/VK against the European Commission

Decision

Case 791/2000/VK - Opened on 07/07/2000 - Decision on 12/12/2000

Strasbourg, 12 December 2000 Dear Ms S., On 13 June 2000 you lodged a complaint with the European Ombudsman against the European Commission concerning your exclusion from the oral tests in competition COM/R/C/01/1999. On 7 July 2000, I forwarded the complaint to the Commission for its opinion. On 16 July 2000, you sent me a letter with further information in relation to your complaint. The Commission sent its opinion on your complaint on 25 September 2000. I forwarded the opinion to you with an invitation to make observations, which you sent on 3 November 2000. I am writing now to let you know the results of the inquiries that have been made.

THE COMPLAINT

By letter of 15 April 2000, the complainant was informed by the Commission that she could not participate in the oral exam of competition COM/R/C/01/1999 organised by the Commission for which she had applied. The complainant was told that she lacked the required professional experience of 3 years. According to point III B 2 of the notice of selection of temporary staff, candidates opting for the field of Support for the Management of Research Projects had to have completed "at least three years' professional experience, including two years' experience related to the field chosen". In a letter of 24 April 2000, the complainant appealed against this decision to the Commission. In this letter, the complainant firstly claimed that she had acquired a certain professional experience. The complainant secondly argued that since she had a final state exam for secondary level education (Abitur), as well as third level qualifications she was sufficiently qualified for this selection procedure. The complainant then complained to the European Ombudsman. She claimed that for the above mentioned reasons she should not have been excluded from the oral exam of the selection procedure. The complainant also stated that she had not received a reply from the Commission to her letter of appeal of 24 April 2000.

THE INQUIRY

The Commission's opinion In its opinion the Commission made the following comments with regard to the complaint: The complainant had passed the pre-selection test. She therefore entered the second phase of the selection procedure which entailed the selection on the basis of the applications made. According to the notice of selection, details of professional experience must be given on the application form. Photocopies of supporting documents clearly showing the nature of the tasks performed and their duration must also be provided.



Furthermore, candidates who fail to submit the latter by the deadline for the submission of applications will not be admitted to the selection procedure. It was the complainant herself who declared on her application form that she did not have the required professional experience of 3 years. The complainant further stated that she had occasionally worked as a trainee in the summer holidays, for example at Volkswagen for 5 months, and at Deutsche Post AG. On the basis of the information provided by the complainant on the application form, as well as on the basis the complainant's failure to submit copies supporting documents concerning her professional experience, the application was declared null and void with the result that the complainant could not be admitted to the oral exam. With regard to the second allegation made by the complainant, the Commission observed that it transmitted a reasoned reply to the complainant's letter of appeal on 15 June 2000 in which it confirmed its previous decision not to accept the candidate for the oral exam. **The complainant's observations** As regards the first allegation, the complainant maintained her complaint. She took note of the Commission's strict interpretation of point III B 2 of the notice of selection for temporary staff as regards the requirement of 3 years' of professional experience. The complainant further queried the chronological order of the examination procedure. She took the view that application forms should have been examined first. As regards the second allegation, the complainant informed the Ombudsman in her letter of 16 July 2000, that the Commission had sent a reply to her letter of appeal on 15 June 2000.

THE DECISION

1 Introductory remark 1.1 In her observations on the Commission's opinion, the complainant queried the chronological order of the examination procedure carried out by the Commission. This query was not raised in the complaint and can therefore not be dealt with in this decision. **2 Failure to take account of diploma** 2.1 The complainant claims that she was unfairly excluded from the oral tests of competition COM/R/C/01/1999. She accepts that she did not have the required professional experience of 3 years. She points out, however, that she finds it difficult to understand how someone with only an intermediate state exam for second level education (mittlere Reife) and professional experience of 3 years could be better qualified than someone with a final state exam for second level education (Abitur) as well as third level qualifications. She considers that the Commission strictly applied point III B 2 of the notice of selection. 2.2 The Commission refers to the notice of selection according to which details of the professional experience must be given on the application form. Photocopies of supporting documents clearly showing the nature of the tasks performed and their duration must also be provided. Furthermore, the note of selection stated that candidates who fail to submit the latter by the deadline for the submission of applications will not be admitted to the selection procedure. The Commission points out that it was the complainant herself who declared on her application form that she did not have the required professional experience of 3 years and that she only occasionally had worked as a trainee in the summer holidays. The complainant also failed to submit any supporting documents on the matter. She therefore could not be admitted to the oral exam of the selection procedure. 2.3 It is not disputed that the complainant did not have at least 3 years' professional experience as required in point III B 2 of the notice of selection. On the basis of the above, there appears to have been no maladministration on the part of the Commission in so far as the first allegation put forward by the complainant is concerned. **3 Failure to reply to letter of appeal** 3.1 In her original complaint, the complainant



claims that the Commission failed to reply to her letter of appeal to the Commission. 3.2 The Commission stresses that it sent a reasoned reply to the complainant on 15 June 2000. 3.3 In her letter of 16 July 2000 to the Ombudsman, the complainant confirmed that the Commission had replied to her letter of appeal. 3.4 On the basis of the above, there appears to have been no maladministration on the part of the Commission. **4 Conclusion** On the basis of the European Ombudsman's inquiries into this complaint, there appears to have been no maladministration by the European Commission. The Ombudsman therefore closes the case. The President of the European Commission will also be informed of this decision. Yours sincerely, Jacob SÖDERMAN