

Decision on whether the European Personnel Selection Office (EPSO) failed to ensure equal testing conditions in a staff selection procedure in the field of external relations (case 1796/2021/ABZ)

Decision

Case 1796/2021/ABZ - Opened on 29/10/2021 - Decision on 29/10/2021 - Institution concerned European Personnel Selection Office (No maladministration found) |

Dear Mr X,

You recently submitted a complaint to the European Ombudsman against the European Personnel Selection Office (EPSO) about allegedly unequal treatment in relation to testing in the selection procedure for administrators in the field of external relations (EPSO/AD/382/20).

Due to the COVID-19 crisis, EPSO opened the possibility to sit tests remotely [1] during a second period of testing. You consider that candidates who were given this possibility had considerable advantages during the selection procedure. In particular, you argue that they had additional time to prepare and could take the test in less stressful circumstances.

After a careful analysis of all the information you provided, we regret to inform you that we find **no maladministration by EPSO** .

EPSO said that remote testing allowed it to progress with selection procedures in the context of the current unprecedented public health crisis caused by the outbreak of COVID-19. In particular, it explained that many candidates could not attend a test centre during the first period of testing due to public health measures, such as travel restrictions and lockdowns in multiple countries, entailing closure of test centres. [2]

Regarding your particular situation, EPSO also argued that candidates who sat the test at a later stage did not benefit from any substantive advantage due to more time to prepare, as the tests are competency-based rather than knowledge-based.

We find that, in light of the exceptional COVID-19 circumstances, EPSO was entitled to determine the optimal way of testing [3] to conclude the selection procedure within reasonable time.



Regarding your allegation that EPSO's measures constitute unequal treatment, according to settled case law, there is a breach of the principle of equal treatment if there is a difference in treatment *that is not objectively justified*. For there to be an objective justification, there must be a legitimate aim and the means of achieving that aim must be proportionate.

We find EPSO's replies to you reasonable. We also find that EPSO's measures related to testing are proportionate to achieve a legitimate aim in the context of the COVID-19 pandemic.

Based on the above, the Ombudsman has closed the case. [4]

We understand that you may be disappointed by this decision, but we hope that the above explanations are nevertheless helpful.

Yours sincerely,

Tina Nilsson

Head of the Case-handling Unit

Strasbourg, 29/10/2021

[1] So-called "remotely-proctored test". When taking a remotely-proctored test, candidates will be continuously monitored by live proctors using various monitoring tools. Candidates can reach out to the proctor if they have questions or in case of emergency.

[2] https://epso.europa.eu/content/coronavirus-important-information_en

[3] In accordance with Points 2 and 5 of the Addendum to Notice of competition EPSO/AD/382/20 - Administrators (AD 5/AD 7) in the field of external relations, available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:C2020/444A/09&from=EN> [Link].

[4] Full information on the procedure and rights pertaining to complaints can be found at <https://www.ombudsman.europa.eu/en/document/70707>