

Decision on how the European Union Agency for Criminal Justice Cooperation (Eurojust) carried out a selection procedure for the position of legal officer (case 1818/2021/FA)

Decision

Case 1818/2021/FA - Opened on 09/11/2021 - Decision on 20/05/2022 - Institution concerned European Union Agency for Criminal Justice Cooperation (No maladministration found) |

The case concerned how the European Union Agency for Criminal Justice Cooperation (Eurojust) carried out a selection procedure for the position of legal officer and assessed the complainant's application.

The Ombudsman found nothing to suggest a procedural error or a manifest error in how the selection board assessed the complainant's application and therefore closed the case with a finding of no maladministration.

Background to the complaint

1. The complainant took part in a selection procedure organised by the European Union Agency for Criminal Justice Cooperation (Eurojust) for recruiting a legal officer (temporary agent AD 7).
[1]

2. Eurojust informed the complainant that his application had been unsuccessful because other applicants more closely matched the specific requirements of the vacancy notice. The complainant asked for more detail on how his application was assessed. Eurojust provided him with the evaluation grid, which indicated the scores awarded to his application for each selection criteria.

3. The complainant asked Eurojust to review the assessment of his application. Eurojust informed the complainant that the selection board reassessed his application and decided to maintain its initial decision not to admit him to the next stage of the selection procedure.

4. The complainant lodged an administrative complaint [2] against Eurojust's decision not to admit him to the next stage of the selection procedure. Eurojust rejected the administrative



complaint.

5. Dissatisfied with Eurojust's decision, the complainant turned to the Ombudsman in October 2021.

The inquiry

6. The Ombudsman opened an inquiry into how Eurojust carried out the selection procedure and assessed the complainant's application.

7. In the course of the inquiry, the Ombudsman's inquiry team inspected Eurojust's file on the complainant's application and organised a meeting with Eurojust to obtain further clarification on the selection procedure and on the assessment of the complainant's application. The meeting report was shared with the complainant for comments.

Arguments of the complainant

8. The complainant contested the scores awarded and claimed that his experience had been arbitrarily downgraded. He also took issue with the selection criteria and the distribution of points for each of the selection criterion. The complainant also raised concerns about the limited word space in the application form.

9. The complainant further argued that Eurojust had failed to provide him with sufficiently detailed information about his scores, such as individual comments and comparable data on the scores of other candidates, which, in his view, undermined the transparency of the selection procedure. He also took issue with the scope of the administrative review.

The Ombudsman's assessment

10. According to EU case-law, selection boards enjoy a wide margin of discretion when assessing the qualifications and professional experience of candidates in selection procedures. [3] It is not the role of the Ombudsman to reassess an application that has been evaluated by a selection board. The Ombudsman would question the evaluation of a selection board only where there is indication of a manifest error of assessment. [4]

11. The Ombudsman's inspection of the file and the explanations provided by Eurojust during the meeting, as shared with the complainant in the meeting report, did not indicate any manifest error of assessment in how the selection board assessed the complainant's application. Eurojust assessed the complainant's application on the basis of pre-established evaluation criteria, which were in line with the vacancy notice. The complainant received high points for his application and there is nothing that would indicate that his experience was arbitrarily downgraded. While the complainant contested the scores he received, EU case-law has



established that a candidate's personal belief about the relevance of their experience cannot call into question the selection board's assessment and does not constitute evidence of manifest error by the selection board. [5]

12. The Ombudsman further considers that Eurojust acted in line with its legal obligations to state reasons by communicating to the complainant his scores for each selection criterion. The fact that Eurojust did not share information on the scores of other applicants is in line with EU case-law on the secrecy regarding the proceedings of the selection board [6] . Moreover, in the course of the inquiry, the complainant received additional explanations on his scores through the meeting report.

13. Regarding the evaluation criteria, EU case-law has established that EU bodies have wide discretion in deciding on the criteria and relevant experience required for posts as well as the distribution of points for each of the selection criterion [7] . The Ombudsman could call such criteria and related scoring into question only where there is indication of a manifest error.

14. Following the explanations provided by Eurojust during the meeting, the Ombudsman finds that the selection criteria chosen by Eurojust for this selection procedure were reasonable, and in line with the vacancy notice and the profile sought for the post. [8] There is nothing to suggest that there was a manifest error in the distribution of points among the selection criteria.

15. The Ombudsman further notes that the space allocated for replies in the application form was reasonable and the same for all applicants and, as such, did not put the complainant in a more disadvantageous position.

16. The scope of the review carried out by Eurojust was also in line with EU case-law [9] .

17. On the basis of the above, the Ombudsman finds no maladministration in how Eurojust organised the selection procedure and assessed the complainant's application.

Conclusion

Based on the inquiry, the Ombudsman closes this case with the following conclusion [10] :

There was no maladministration in how the European Union Agency for Criminal Justice Cooperation organised the selection procedure and assessed the complainant's application.

The complainant and Eurojust will be informed of this decision .

Tina Nilsson

Head of the Case-handling Unit



Strasbourg, 20/05/2022

[1] Vacancy notice 20/EJ/15.

[2] On the basis of Article 90(2) of the Staff Regulations.

[3] Judgment of the General Court of 11 February 1999, Case T-244/97, *Mertens v Commission*, paragraph 44, available here:

<https://eur-lex.europa.eu/legal-content/HR/TXT/?uri=CELEX:61997TJ0244> [Link]; Judgment of the General Court of 11 May 2005, Case T-25/03, *De Stefano v Commission*, paragraph 34, available here:

<http://curia.europa.eu/juris/celex.jsf?celex=62003TJ0025&lang1=en&type=TXT&ancre> [Link].

[4] See Decision of the European Ombudsman closing the inquiry into complaint 14/2010/ANA against the

European Personnel Selection Office, paragraph 14, available here:

https://www.ombudsman.europa.eu/cases/decision.faces/en/10427/html.bookmark#_ftnref5 [Link]; and Judgment of the Court of First Instance of 31 May 2005, Case T-294/03, *Gibault v Commission*, paragraph 41, available here:

<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:62003TJ0294> [Link].

[5] Judgment of the Court of First Instance of 15 July 1993, Joined Cases T-17/90, T-28/91 and T-17/92, *Camara Alloisio e.a. v Commission*, paragraph 90, available here

<https://eur-lex.europa.eu/legal-content/GA/TXT/?uri=CELEX:61990TJ0017> [Link]; Judgment of the Court of First Instance of 23 January 2003, Case T-53/00, *Angioli v Commission*, paragraph 94, available here

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=47998&pageIndex=0&doclang=FR&mode=lst&dir=> [Link].

[6] Judgment of the Court of 4 July 1996, Case C-254/95 P, *European Parliament v Angelo Innamorati*, paragraphs 27 to 33, available here:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61995CJ0254> [Link]; Judgment of the General Court of 22 September 2021, Case T-435/20, *JR v European Commission*, paragraphs 52 to 57, available here:

<https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62020TJ0435> [Link];

[7] Judgment of the Court of First Instance of 16 October 1990, Case T-132/89, *Vicenzo Gallone v Council of the European Communities*, paragraph 27, available here:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61989TJ0132> [Link]; Judgment



of the Court of First of 5 February 1997, Case T-207/95, *Maria de los Angeles Ibarra Gil v Commission of the European Communities*, paragraph 66, available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61995TJ0207> .

[8] In accordance with Article 27 of the Staff Regulations.

[9] Judgment of the General Court (Fourth Chamber) of 23 September 2020, Case T-596/18,

ZL v European Union Intellectual Property Office , paragraphs 120 to 123 and 125, available here:

<https://curia.europa.eu/juris/document/document.jsf?text=&docid=231529&pageIndex=0&doclang=EN&mode=lst&d>
[Link].

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