

Decision of the European Ombudsman on complaint 697/2001/IP against the European Parliament

Decision

Case 697/2001/IP - Opened on 18/05/2001 - Decision on 07/12/2001

Strasbourg, 7 December 2001

Dear Mrs M.,

On 7 May 2001, you made a complaint to the European Ombudsman against the European Parliament concerning your participation in open competition EUR/B/142/98.

On 18 May 2001, I forwarded the complaint to the President of the Parliament. The Parliament sent its opinion on 31 August 2001 and I forwarded it to you with an invitation to make observations, if you so wished. No observations appear to have been received from you.

I am writing now to let you know the results of the inquiries that have been made.

THE COMPLAINT

The complainant took part in written tests in competition EUR/B/142/98 organised by the European Parliament. On 2 October 2000, she was informed that in test 1 a) she failed to achieve the necessary mark to pass it. The complainant obtained 22.29 points whereas the minimum number of points required was 24.

On 29 January 2001, the complainant wrote to the Parliament and asked to receive a copy of her multiple choice test 1 a) on which the incorrect answers were indicated and with the indication of the minimum number of correct answers needed to pass this test. The complainant also requested to receive a copy of all the other parts of the examination which were corrected.

By letter of 16 February 2001, the Chairman of the Selection Board replied to the complainant. He confirmed the points obtained by the complainant in test 1 a) and pointed out that since, as indicated in the Official Journal containing the notice of competition, candidates who failed this test were eliminated, no further tests made by the complainant were corrected. Moreover, the Chairman of the Selection Board pointed out that the Parliament had recently accepted the draft recommendation made by the European Ombudsman concerning the rights of the candidates who failed a test of an open competition to have a copy of their own marked examination



papers. However, the new procedures were not in place yet and the Selection Board was therefore unable to accede to the request of the complainant to have a copy of her marked test.

On 21 March 2001, the complainant wrote a further letter to the Chairman of the Selection Board expressing her disagreement with the reply given to her, but by letter of 2 April 2001, the Head of the Competitions Unit confirmed the position of the Selection Board.

On 14 May 2001, the Ombudsman received the complainant's complaint in which she claimed that the Parliament should have granted her a copy of her marked examination papers.

THE INQUIRY

The Parliament's opinion

Following the draft recommendation made by the European Ombudsman, the Parliament has accepted the principle to allow, under certain conditions, candidates who have failed in a test in an open competition to have a copy of their own marked examination papers. However, these new rules apply to competitions for which Selection Board have been constituted from 1 January 2001 onwards. The Selection Board of the competition in question was set up on 16 September 1999. These rules are therefore not applicable in the complainant's case.

However, by letter of 17 April 2001 the Parliament informed the Ombudsman that its competition service was ready to supply a copy of their original own examination papers with the final global mark given by the Selection Board as a whole to candidates who so request, even when they have participated in a competition for which the new rules did not apply.

On 25 June 2001, the Selection Board sent to the complainant a copy of her test 1 a). As regards her marks, on 2 October 2000, the complainant was already informed of the points she obtained in test 1 a). The test in question being a multiple choice test, there was no marked paper, but only an optical reader form filled by the complainant which is read by an optical reader programmed with the correct answers. It would therefore have been impossible to forward a marked test to the complainant, since it did not exist.

The complainant's observations

The Parliament's opinion was forwarded to the complainant for observations. No observations appear to have been received by the Ombudsman.

THE DECISION

1 Access to the complainant's marked examination papers

1.1 The complainant, who participated in open competition EUR/B/142/98, was excluded by the selection procedure because she failed in test 1 a). In her complaint to the Ombudsman, the complainant claimed that the Parliament should have granted her a copy of her marked examination papers.

1.2 In its opinion, the institution stressed that it is setting up new rules in order to allow candidates, under certain conditions, to have a copy of their own marked examination papers.



These new rules are applied only to competitions for which the Selection Board has been constituted from 1 January onwards. Since the Selection Board of the competition in question was set up on 16 September 1999, these rules were therefore not applicable in the complainant's case.

However, the Parliament forwarded to the complainant a copy of her exam papers concerning test 1 a). The test in question being a multiple choice test, there is no marked paper, but only an optical reader form filled by the complainant which is read by an optical reader programmed with the correct answers. It would therefore have been impossible to forward a marked test to the complainant, since it did not exist.

1.3 Access to their own marked examination papers on request of candidates who have participated in a competition has been the subject of several inquiries carried out by the Ombudsman during the last few years. In July 2000, as result of four inquiries opened on this matter against the Parliament, the Ombudsman made a draft recommendation to the institution. The Ombudsman stated that the refusal to allow candidates to have access to their own marked examination papers constituted an instance of maladministration. In its detailed opinion the Parliament explained that the institution accepted the principle to allow candidates to have a copy of their own marked examination test, in conformity with the respect of the obligation of confidentiality consistently established by case law of Communities Courts.

However, due to the arrangements necessary to put into practice the new policy, it would apply to competitions for which the Selection Board has been constituted from 1 January onwards.

1.4 It appears that the Parliament acted in accordance with its undertaking when dealing with the complainant's request and that there has been no maladministration by the institution as concerns this case.

2. Conclusion

On the basis of the Ombudsman's inquiries into this complaint, there appears to have been no maladministration by the European Parliament. The Ombudsman therefore closes the case.

The President of the European Parliament will also be informed of this decision.

Yours sincerely,

Jacob SÖDERMAN