



Decision in the case on how the European Commission replied to a letter concerning a staff selection procedure carried out by a Spanish research centre (1679/2022/LDS)

Decision

Case 1679/2022/LDS - **Opened on** 05/10/2022 - **Decision on** 05/10/2022 - **Institution concerned** European Commission (No maladministration found) |

Dear Ms X,

You recently made a complaint to the European Ombudsman about how the European Commission replied to a letter concerning your exclusion from a staff selection procedure carried out by a Spanish research centre, the Health Institute Carlos III.

It appears that, in your letter to the Commission, you complained about allegedly bad practices in a staff selection procedure carried out by the Health Institute Carlos III, in which you participated. You argued that your educational background and professional experience had not been properly assessed by the Institute. You also complained that the Spanish Ombudsman had dismissed your request for an investigation on this matter.

The Commission replied to you that it can only investigate infringements of EU law by a Member State. The matter you complained about did not seem to concern such a situation. The Commission also said that, from the information provided in your letter, it did not appear that you were excluded from the selection procedure for reasons of discrimination. It further pointed out that it does not have the competence to intervene in individual cases, like yours, which should be investigated by national authorities such as national courts. The Commission therefore decided not to launch a formal infringement procedure on this matter.

We understand from your complaint to the Ombudsman that you consider that the Commission was wrong not to take any action in relation to your complaint. You would like the Ombudsman to investigate your exclusion from the selection procedure.

The Commission enjoys wide discretion in deciding whether and when to commence an infringement procedure [1] . Its policy on infringements of EU law is set out in its Communication “EU law: Better results through better application” [2] .

The Ombudsman would question the Commission’s position on an infringement complaint



only in case of a manifest error of assessment. We note that the Commission provided you with clear information why it considers that there is no breach of EU law in your case and we find that the reply is reasonable.

Having found no indication of a manifest error in the Commission's assessment of your complaint, we find no maladministration.

You further claim that the European Ombudsman should investigate the selection procedure in which you participated, a matter that was previously dismissed by the Spanish Ombudsman. I am sorry to have to inform you that this is a matter that is not within the European Ombudsman's mandate. As we communicated to you in the decision of 28 July 2021 on your previous complaint 1303/2021/JL regarding the selection procedure, the Ombudsman can investigate only complaints that concern the administrative work of the European Union's institutions and bodies. The Health Institute Carlos III is not an EU body and the Ombudsman cannot, therefore, investigate its actions. The Spanish Ombudsman is also a national institution, and it is not within the European Ombudsman's mandate to review the decisions issued by it.

I appreciate this may not be your desired outcome but I hope you find these explanations useful. Thank you for having contacted the European Ombudsman.

Yours sincerely,

Tina Nilsson Head of the Case-handling Unit

Strasbourg, 05/10/2022

[1] Judgment of the Court of 14 February 1989, *Starfruit v Commission*, case 247/87, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:61987CJ0247>.

[2] [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017XC0119\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017XC0119(01)&from=EN)