

## **Decision on alleged irregularities in how the European Border and Coast Guard Agency (Frontex) carried out a staff selection procedure for recruiting a ‘command and control support officer’ (case 882/2021/PL)**

Decision

**Case 882/2021/PL - Opened on 30/11/2021 - Decision on 22/11/2022 - Institution concerned** European Border and Coast Guard Agency ( No maladministration found ) |

The complainant took issue with how the European Border and Coast Guard Agency (Frontex) carried out a staff selection procedure for the recruitment of a ‘command and control support officer’. In particular, he was concerned that the selection criteria had been set to favour the recruitment of a specific candidate. The complainant also disagreed with the use of the ‘reserve list’ of successful candidates from the selection procedure to recruit a service desk manager, arguing that this did not correspond to the expertise that the selection procedure had evaluated.

The Ombudsman opened an inquiry into these concerns and inspected Frontex’s internal documents. The Ombudsman found that how Frontex carried out the selection procedure ensured equal treatment of candidates. The Ombudsman also found that it was reasonable to recruit a service desk manager from the reserve list in question. The Ombudsman therefore closed the case with a finding of no maladministration.

### **The complaint**

1. In May 2019, the complainant took part in a selection procedure organised by the European Border and Coast Guard Agency (Frontex) for a ‘command and control support officer’ (a ‘temporary post’) [1] . He was unsuccessful and was not put on the shortlist from which successful candidates may be recruited (‘reserve list’).

2. A few months later, Frontex decided to use the reserve list of this selection procedure to recruit a service desk manager.

3. The complainant raised concerns [2] with Frontex about irregularities in the selection procedure. Among other issues, the complainant considered that it was unclear how Frontex had assessed the selection criteria. He was concerned that the selection criteria had been set to recruit a specific candidate. He also took issue with the fact that Frontex had used the reserve



list to fill in the position of service desk manager. In particular, he argued that this position required IT knowledge that had not been essential to the previous selection procedure.

4. Frontex rejected the complainant's concerns. Dissatisfied with Frontex's response, the complainant turned to the Ombudsman in May 2021.

## The inquiry

5. The Ombudsman opened an inquiry into a) the complaint's concern about irregularities in the selection procedure, particularly how Frontex had applied the selection criteria, and b) the use of the reserve list to recruit a service desk manager.

6. In the course of the inquiry, the Ombudsman inquiry team inspected Frontex's internal documents and obtained written explanations from Frontex related to the selection procedure and the recruitment for the position of service desk manager.

### A. Selection procedure for a command and control support officer

## Arguments presented to the Ombudsman

7. The complainant took issue with the fact that the vacancy notice in the selection procedure did not specify which criteria would be applied for the preselection of candidates and which would be assessed at a later stage only. The complainant argued that this was to favour specific candidates that would not have passed the eligibility phase if the criteria had been evaluated in a different order.

8. Frontex explained that this was done to encourage applications to be as "*natural and realistic*" as possible and to avoid that candidates tailor their applications to pass the preselection stage. The decision on which selection criteria were to be evaluated in each phase of the selection procedure and their 'weightings' was taken by the selection committee during its kick-off meeting. This ensured more effectively the independence of the selection committee and its margin of discretion.

## The Ombudsman's assessment

9. In EU recruitment procedures, it is settled case-law that the vacancy notice needs to give those interested the most accurate information possible on the nature of the conditions of eligibility for the post to be filled, in order to enable them to decide whether they should apply for it. The vacancy notice also establishes the legal framework that the EU institution or body concerned must respect when it carries out its comparative assessment of candidates. This implies that sufficiently precise requirements must be set out to enable that comparison to be carried out and to justify the choices made. [3]

10. The vacancy notice in this selection procedure set eligibility criteria of very general nature.



However, the specific profile of the desired candidates was determined by a long list of duties and responsibilities linked to the post and fourteen selection criteria. Concerning the selection criteria, the vacancy notice stated: *"Eligible applications are evaluated by an appointed Selection Committee based on a combination of certain selection criteria defined in the vacancy notice (some criteria will be assessed/scored only for shortlisted applicants)."*

11. As to whether the selection criteria and their application favoured a specific candidate, the Ombudsman checked Frontex's file and confirmed that the selection committee decided on the selection criteria to be assessed at each stage of the selection procedure *before* it screened the applications. The selection committee applied the pre-established selection and scoring criteria to all candidates. The Ombudsman finds nothing to suggest that the selection criteria were applied in a way that favoured a specific candidate. The procedure was carried out in respect of the principle of equal treatment and that there was no maladministration by Frontex.

#### **B. Recruitment of the service desk manager**

### **Arguments presented to the Ombudsman**

12. The complainant took issue with the fact that the reserve list from the selection procedure for a command and control support officer was used to fill the post of service desk manager. He argued that the service desk manager position required IT knowledge, which had not been an essential selection criterion in the selection procedure.

13. Frontex provided a copy of the internal note regarding the decision to select a successful applicant from the reserve list to fill the post of the service desk manager.

### **The Ombudsman's assessment**

14. According to EU case-law, EU institutions enjoy wide discretion in organising selection procedures for the purposes of filling temporary posts, both in choosing how to organise selection procedures and how they are conducted. [4] The Ombudsman would only question such a procedure where there is an indication of a manifest error linked to the procedure.

15. According to the vacancy notice for the position of command and control support officer, suitable applicants would be proposed for a reserve list, which would also be used *"to fill similar vacant posts depending on the needs of Frontex"*.

16. The inspected documents show that, before recruiting the service desk manager from this reserve list, Frontex assessed whether the post could be considered similar to that of command and control support officer. It did so by comparing the main duties and responsibilities of the two posts. Both positions appear similar, diverging in only three out of the thirteen duties listed.

17. Frontex interviewed all available candidates on the reserve list and assessed two additional selection criteria. While experience in software administration had been assessed in the previous selection procedure, Frontex also included a question on IT tools for service



management.

18. In view of this, the Ombudsman finds no manifest error by Frontex in recruiting a service desk manager from the reserve list. The Ombudsman therefore finds no maladministration concerning this aspect of the complaint.

## Conclusions

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

**There was no maladministration by the European Border and Coast Guard Agency.**

The complainant and Frontex will be informed of this decision .

Tina Nilsson Head of the Case-handling Unit

Strasbourg, 22/11/2022

[1] 'Command and Control Support Officer' (RCT-2019-00031), available at:  
<https://microsite.frontex.europa.eu/en/recruitments/RCT-2019-00031> [Link]

[2] In the context of an administrative complaint under Article 90(2) of the Staff Regulations.

[3] See Judgement of the General Court of 8 May 2019, in Case T-99/18, *Grigorios Stamatopoulos v European Union Agency for Network and Information Security* , paragraph 48:  
<https://curia.europa.eu/juris/liste.jsf?num=T-99/18&language=EN> [Link].

[4] See judgment of 4 May 2005, *Sena v EASA* , T-30/04, paragraph 46 and the case-law cited available: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62004TJ0030> [Link]