

Decision on the European Personnel Selection Office's (EPSO) decision not to allow a candidate in COVID-19 quarantine to reschedule a test (case 2223/2021/ABZ)

Decision

Case 2223/2021/ABZ - Opened on 03/03/2022 - Decision on 18/01/2023 - Institution concerned European Personnel Selection Office (No maladministration found) |

The case concerned the decision of the European Personnel Selection Office (EPSO) not to allow a candidate, who was placed in COVID-19 quarantine, to reschedule her test in the context of a selection procedure for contract agent staff (CAST Permanent selection procedure).

The Ombudsman found that EPSO provided reasonable explanations as to why it was not able to provide an alternative testing date to the complainant. On that basis, the Ombudsman closed the inquiry with a finding that there was no maladministration by EPSO.

Background to the complaint

1. The European Personnel Selection Office (EPSO) organises selection procedures to recruit staff for EU institutions, bodies and agencies. For the purpose of recruitment of contract agent staff, EPSO administers the Contract Agent Selection Tool (CAST).
2. When recruiting needs arise, the EU institutions may pre-select a number of candidates who are registered in the CAST applications database and whose qualifications match the professional profile being sought. The pre-selected candidates are then invited by EPSO to take a series of tests, but are not informed which EU institution has pre-selected them. Successful candidates may receive an offer of employment from the institution in question.
3. The complainant was invited to take part in a test for contract agent staff ('CAST Permanent selection procedure') in the field of finance. [1] She booked her test appointment to take place in a test centre on the last day of the available testing period, 3 December 2021.
4. A few days prior to her test, one of the complainant's family members tested positive for COVID-19. In line with the sanitary measures applicable at that time, the complainant was placed in a mandatory fourteen-day quarantine and was not able to go to the test centre on the scheduled date.



5. The complainant informed EPSO about her situation and asked it to reschedule her test. She also asked EPSO to inform the institution that had pre-selected her that she was unable to sit the test on the original date.

6. EPSO refused the complainant's request, arguing that it was not possible to extend the testing period or reschedule a test to the next testing period. It nevertheless informed the complainant that her profile would remain visible to the institution that had pre-selected her, which could decide to re-invite her to the test.

7. Dissatisfied with EPSO's decision, the complainant turned to the Ombudsman in December 2021.

The inquiry

8. The Ombudsman opened an inquiry into how:

(i) EPSO dealt with the complainant's request to reschedule her test, and, in particular, whether EPSO considered any alternative solutions and took into account the principle of *force majeure* in open competitions, [2] according to which candidates should be given a new deadline under certain circumstances.

(ii) EPSO addressed the complainant's request to inform the institution that had pre-selected her that she was unable to sit the test.

9. In the course of the inquiry, the Ombudsman received EPSO's written reply. The Ombudsman inquiry team also met with EPSO's representatives.

10. The meeting report was shared with the complainant, who did not provide comments on its content.

How EPSO dealt with the request to reschedule the test

Arguments presented to the Ombudsman

11. The complainant argued that she was unable to take the test due to circumstances that fell beyond her control and to which she could not find a suitable solution. She added that, if she went the test centre on the scheduled date, she would put other candidates at risk and breach the applicable sanitary measures.

12. The complainant thus considered that EPSO's decision not to allow her to reschedule the test was discriminatory and not suitable in light of the COVID-19 pandemic.



13. EPSO argued that tests could be rescheduled within the same testing period, subject to availability. However, it was not possible to extend the testing period as such, due to the specific nature of the CAST Permanent selection procedure, which aims at swiftly fulfilling the recruiting needs of the EU institutions. As the complainant's test was scheduled for the last available date in the testing period, it was therefore not possible to reschedule her test. It added that recruiting institutions could decide to re-invite a candidate to a later testing period but that EPSO had no role to this end.

14. As regards the alternative solutions that would allow the candidate to sit her test, EPSO indicated that it is taking steps to introduce remote testing in the CAST procedure but that this was not in place at the time of the complainant's test. Therefore, EPSO was not in a position to provide the candidate with any other alternative solution, which would allow her to sit the test on the scheduled date.

The Ombudsman's assessment

15. The Ombudsman understands the disappointment of the complainant, who feels that she missed out on a professional opportunity due to circumstances beyond her control.

16. Nevertheless, the Ombudsman considers that, in the course of the inquiry, EPSO presented reasonable arguments as to why it was not able to provide an alternative testing date to the complainant. While it is regrettable that the complainant's request to reschedule her test could not be accommodated, EPSO correctly explained that only the recruiting institution could decide to re-invite a candidate to sit the test in another testing period.

17. While it was also regrettable that the possibility of remote testing in the procedure was not available at the time of the complainant's test, the Ombudsman notes that EPSO has since taken steps to address this.

18. In view of the above, the Ombudsman considers that EPSO dealt with the complainant's request in an appropriate and reasonable manner.

On how EPSO informed the recruiting institution that the complainant was unable to sit the test

Arguments presented to the Ombudsman

19. The complainant expressed her concern that, if EPSO did not inform the recruiting institution about the reasons why she was unable to sit the test, it might assume that she was not interested in contract agent position, and not re-invite her to sit the tests. The complainant further stated that she could not inform the recruiting institution herself, since its identity had not



been revealed to her in the course of the procedure.

20. EPSO stated that it informed the recruiting institution why the complainant was unable to sit the test, and indicated that it could re-invite the candidate to sit the test in the next testing period. However, EPSO did not inform the complainant that it had informed the recruiting institution, in line with its administrative practice at that time. It added that, since January 2022, it provides such information to the candidates. In particular, it informs pre-selected candidates in their CAST invitation letter that they may notify EPSO about their unavailability in a given testing period, within two days of their invitation and while providing supporting documents. Such information is then forwarded to the relevant recruiting institution, which may decide to re-invite a candidate to the next testing period.

The Ombudsman's assessment

21. It is understandable that, in cases in which candidates do not attend a test due to the circumstances falling beyond their control, they would like to be reassured that their absence would not affect the possibility of being re-invited to the test in the future.

22. It is unfortunate that EPSO did not inform the complainant that the recruiting institution was made aware of the reasons why she was unable to sit the test. However, the Ombudsman notes that since then EPSO has adopted relevant changes in its testing policy and that it now provides such information to the candidates. The Ombudsman welcomes this.

23. In the course of the inquiry, the Ombudsman inquiry team observed that the information EPSO now makes available to candidates about their rights where they are unavailable to sit a test was not entirely clear, and was also not reflected on EPSO's dedicated website concerning the CAST Permanent selection procedure. The Ombudsman inquiry team also questioned the short deadline for notifying unavailability, which would not take into account unforeseen circumstances closer to the test date.

24. EPSO expressed its willingness to extend the notification period to cover the booking and testing period in its entirety, and to provide clearer information on its dedicated website.

25. The Ombudsman also welcomes EPSO's willingness to extend the deadline in which candidates may notify it about their absence. The Ombudsman notes that this is not only fairer to candidates, but it also allows the recruiting institutions to retain the largest pool of potential candidates for its contract agent posts.

Conclusion

Based on the inquiry, the Ombudsman closes this case with the following conclusion [3] :

There was no maladministration by the European Personnel Selection Office.



The complainant and the European Personnel Selection Office will be informed of this decision .

Tina Nilsson Head of the Case-handling Unit

Strasbourg, 18/01/2023

[1] EPSO/CAST/P/1/2017 Finance.

[2] Decision of the European Ombudsman closing the inquiry into complaint 52/2014/EIS, concerning the decision of the European Personnel Selection Office (EPSO) to have due regard to the force majeure principle in open competitions:

<https://www.ombudsman.europa.eu/en/decision/en/73144> [Link].

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