

Decision of the European Ombudsman on complaint 509/2002/OV against the Council

Decision

Case 509/2002/OV - Opened on 09/04/2002 - Decision on 16/10/2002

Strasbourg, 16 October 2002

Dear Mrs T.,

On 6 March 2002, you made a complaint to the European Ombudsman concerning your exclusion from open competition COUNCIL/A/393 for Greek administrators.

On 9 April 2002, I forwarded the complaint to the Secretary General of the Council. The Council sent its opinion on 10 June 2002 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

According to the complainant, the relevant facts were as follows:

The complainant participated in open competition COUNCIL/A/393 for Greek A 7 administrators. In May 2001 she sat the pre-selection tests. In a letter of 29 October 2001, she was informed that, although she had successfully passed all the pre-selection tests, her application was rejected, because she had not provided any evidence that she had the experience and the education required by the competition notice. In November 2001 the complainant wrote to the Selection Board claiming that her application met all the requirements of the competition notice. She therefore asked the Selection Board to reconsider her file.

In a letter dated 8 February 2002 the Council's Recruitment Service replied and observed that the complainant's professional experience consisted mainly of secretarial duties, the nature of which could not be considered of equal level to the duties the successful candidates would be called to perform, namely "duties of planning, research or control". The Council thus reiterated its initial decision and excluded any possibility of reconsidering the complainant's file.

In her reply to the Council's decision, the complainant enclosed a university certificate attesting



that her studies are of post-graduate level. With regard to the professional experience, the complainant noted that the competition notice mentioned that the successful candidates would be called to perform secretarial duties in the various working groups, duties which she had performed during her two-year full-time professional experience.

On 6 March 2002, the complainant launched the present complaint with the European Ombudsman making the following two allegations:

1. The Council provided no argument for excluding her from the competition on the basis of lack of university graduate level education or officially equivalent studies based on point III, B, 2 a) of the competition notice;
2. The Council's argument that there was lack of professional experience based on point III, B, 2 b) of the competition notice is arbitrary and unfair.

THE INQUIRY

The Council's opinion

The Council pointed out that the Selection Board of competition A/393 answered the complainant's last letter on 20 March 2002. In its reply, the Selection Board indeed no longer claimed the absence of a university diploma as stated in a first reply dated 29 October 2001, and chose to focus on the obvious lack of professional experience of the candidate.

As regards the lack of professional experience of the candidate, the Council emphasised the correct application made by the Selection Board of the relevant provision of the competition notice. At point III 2 b, the competition notice requires that candidates - at the publication date of the competition notice and subsequent to their university degree - have acquired at least 2 years of professional experience of a level equivalent to the duties and tasks set out under point II of the competition notice for administrators at the Council. The complainant indicated as professional experience on the one hand, her work as a bilingual (English/Greek) office secretary between 1 October 1998 and 16 September 2001 and, on the other hand, a three months internship with the Council of Europe in Strasbourg from June to September 1998 as part of a one year programme of postgraduate translation studies.

As far as the candidate's professional experience as a secretary is concerned, it is obvious that this professional experience is not equivalent to the A-category functions set out in the competition notice (the drafting of notes and memoranda, advising and assisting members of the Council and the Presidency), but to clerical functions of the C-category, as described in Article 5 of the Staff Regulations.

As regards the complainant's internship and postgraduate translation studies, point III, B, 2 b) of the competition notice provides that, *inter alia* (1) , "seront prises en considération pour moitié et pour au maximum un an en tant qu'expérience professionnelle :

- toute période de stage de spécialisation ou de perfectionnement professionnel à plein temps,



postérieure au diplôme visé au point 2.a) et dûment attestée, et

- les formations complémentaires à plein temps, sanctionnées par des diplômes de niveau supérieur au diplôme visé au point 2.a)".

It clearly follows from this provision that these elements could only be taken into account as equivalent of professional experience for half of the duration of the postgraduate studies, which included the three-month internship, i.e. 6 months. It is indeed a well established rule in EC-recruitment procedures to take only limited account of internships and postgraduate studies as regards the requirement of professional experience. This rule is neither arbitrary nor unfair but merely reflects the emphasis on real professional experience when recruiting officials at A7 level. It follows that the complainant did not fulfil the requirement of two years of professional experience stipulated in competition COUNCIL/A/393.

On basis of these explanations, the complaint is unfounded.

The complainant's observations

The complainant made no observations on the Council's opinion.

THE DECISION

1 The argument relating to the lack of the appropriate degree

1.1 The complainant alleged that the Council provided no argument for excluding her from the competition on the basis of lack of university graduate level education or officially equivalent studies based on point III, B, 2 a) of the competition notice.

1.2 The Council stated that, in its second letter of 20 March 2002, it no longer claimed the absence of a university diploma as stated in a first reply dated 29 October 2001, and chose to focus on the obvious lack of professional experience of the candidate.

1.3 It appears from the Council's opinion that the Selection Board has dropped its argument concerning the exclusion of the complainant from the competition because of lack of the appropriate degree. No further inquiries into this aspect of the complaint therefore appear to be necessary. The Ombudsman will therefore only evaluate the allegation concerning the lack of professional experience.

2 The argument relating to the lack of professional experience

2.1 The complainant alleged that the Council's argument that there was lack of professional experience based on point III, B, 2 b) of the competition notice was arbitrary and unfair. The Council observed that it had made a correct application of point III, B, 2 b) of the competition notice, because the complainant had merely worked as a bilingual secretary and made a three months internship in the Council of Europe. Moreover, the 1 year post graduate studies could only be taken into account for half of the period, i.e. 6 months.

2.2 Point III, B, 2 b) of the competition notice required a professional experience of two years of full employment in duties which the successful candidates would be called to perform and which are described in Title II of the competition notice. These duties are the ones corresponding to



the tasks of A-grade officials. The competition notice further stated that all complementary education could only be taken into account for half the period.

2.3 In the present case, it appears that the complainant's professional experience consists - chronologically - of a one year post-graduate programme (DESS, 1997-1998) which included a three months internship in the Council of Europe and of nearly 3 years as bilingual office secretary (from 1 October 1998 to 16 July 2001). Given that the experience as secretary cannot be taken into account because not equivalent to those required by the competition notice, and that the post-graduate studies could only be taken into account for half the period, it appears that the complainant's total professional experience, as required by point III, B, 2 b) of the competition notice, amounts to 6 months.

2.4 On basis of the above, the Ombudsman considers that the decision of the Selection Board to exclude the complainant from the competition was in line with provisions of the competition notice. The Selection Board therefore stayed within the limits of its legal authority. No instance of maladministration was therefore found with regard to this aspect of the case.

3 Conclusion

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

The Secretary General of the Council will also be informed of this decision.

Yours sincerely,

Jacob SÖDERMAN

(1) The competition notice was published only in Greek and French.