

## **Decision of the European Ombudsman on complaint 1330/2002/VK against the European Commission**

Decision

**Case 1330/2002/VK - Opened on 25/07/2002 - Decision on 31/10/2002**

Strasbourg, 31 October 2002

Dear Dr R.,

On 16 July 2002, you made a complaint to the European Ombudsman concerning your exclusion from Open Competition COM/A/10/01.

On 25 July 2002, I forwarded the complaint to the President of the Commission.

On 31 August 2002, you informed my office that you launched an Article 90 (2) appeal with the Commission.

By letter of 7 October 2002, the Commission sent its opinion.

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:

Firstly, the complainant argues that the Commission should not have refused his application on the grounds that his current work was not sufficiently relevant. The competition is for lawyers and the complainant works as a lecturer in EU law at the European Institute of Public Administration where he trains civil servants on issues of EU law. The complainant claims that the Commission did not assess the matter properly.

Secondly, the complainant complains about the delay in notifying him of the reasons of the decision. He was notified on 6 June 2002, the reasons for the decision were only given on 11 July 2002, one week before the written exams took place.

Thirdly, the complainant argues that the jury never replied to his arguments as to why he should be admitted to the tests. It has not responded to his arguments given in his letters of 14 June



2002 in which he requested a re-examination of his dossier.

## THE INQUIRY

On 25 July 2002, the Ombudsman forwarded the complaint to the President of the Commission.

On 31 August 2002, the complainant sent a letter to the Ombudsman's office indicating that he had launched an Article 90 (2) appeal with the Commission. He sent a copy of his appeal.

On 7 October 2002, the Commission equally informed the Ombudsman that the complainant has submitted a complaint based on Article 90 (2) of the Staff Regulations. In this appeal, the complainant made the same points as those made in his complaint to the Ombudsman. The Commission further stated that it will sent the Ombudsman a copy of its official reply to the complainant as soon as this is sent to him.

## THE DECISION

### 1 The alleged incorrect handling of the complainant's application

1.1 The complainant alleged that he was incorrectly excluded from the competition COM/A/10/01. He further complains about the delay in notifying him of the reasons of the decision and, about the Commission's failure to respond to his arguments presented in his letter in which he requested a re-examination of his case.

1.2 On 31 August 2002, the complainant sent a letter to the Ombudsman's office indicating that he had launched an Article 90 (2) appeal with the Commission. By letter of 7 October 2002, the Commission equally informed the Ombudsman of this appeal.

1.3 Article 2 (8) of the Statute of the European Ombudsman provides that *"no complaint may be made to the Ombudsman that concerns work relationships between the Community institutions and bodies and their officials and other servants unless all the possibilities for the submission of internal administrative requests and complaints, in particular the procedures referred to in Article 90 (1) and (2) of the Staff Regulations, have been exhausted by the person concerned"*.

1.4 The Ombudsman notes that an internal administrative procedure is currently pending within the Commission. Therefore, on the basis of Article 2 (8) of the Statute of the European Ombudsman, it does not appears justified to further pursue the inquiry into this complaint. If the complainant is not satisfied with the outcome of this internal procedure or if there is no outcome within a reasonable time, he can consider renewing his complaint with the Ombudsman.

### 2 Conclusion

Given that an internal administrative procedure is pending to review the case, the Ombudsman considers that it is not justified to further pursue the inquiry into this complaint. He therefore closes his inquiry on the basis of Article 2 (8) of the Statute of the European Ombudsman.

The President of the Commission will also be informed of this decision.



Yours sincerely,

Jacob SÖDERMAN