

Decision of the European Ombudsman on complaint 1358/2002/IP against the European Commission

Decision

Case 1358/2002/IP - Opened on 30/08/2002 - Decision on 13/05/2003

Strasbourg, 13 May 2003

Dear Mr X.,

On 22 July 2002, you made a complaint to the European Ombudsman concerning the rules adopted by the Commission for the reimbursement of travel expenses to candidates in open competitions.

On 30 August 2002, I forwarded the complaint to the President of the European Commission. The European Commission sent its opinion on 22 November 2002, and I forwarded it to you with an invitation to make observations, if you so wished. On 14 December 2002, I received observations from you.

On 29 January 2003, I decided that it was necessary to conduct further inquiries, and I therefore asked the Commission for a second opinion. I received the Commission's second opinion on 28 February 2003, and I forwarded it to you with an invitation to make observations by the end of March, if you so wished. It appears that no observations have been received from you.

I am writing now to let you know the results of the inquiries that have been made.

THE COMPLAINT

In his complaint, the complainant alleged that the rules adopted by the Commission for the reimbursement of travel expenses for candidates in open competitions are discriminatory against candidates from distant Member States. According to the complainant, these candidates are disadvantaged compared to those who live close to the place of competitions which is normally Brussels.

The complainant claimed that the Commission should adopt new rules for the reimbursement of travel expenses in order to guarantee a concrete equality of opportunities to potential candidates in open competitions.



THE INQUIRY

The European Commission's opinion

The complaint was forwarded to the European Commission, which made in summary the following comments:

The complainant participated in open competition COM/A/9/01, to constitute a reserve of administrators in the field of economics and statistics. She chose the field of economics. After the preselection tests, the complainant was among the 500 best candidates. According to point I.5 of the Notice of competition, the complainant was asked to complete the application form which was sent to him by post. The Selection Board then examined the complainant's dossier and informed her that she was admitted to the written tests, foreseen on 19 July 2002. The complainant did not take part in these tests.

As regards the reimbursement of travel expenses, the relevant rules are laid down in conclusion 211/95 that was adopted by the Heads of administration at interinstitutional level on 28 March 1996 and that entered into force on 1 April 1996. By an internal directive of 15 April 1996, the European Commission implemented conclusion 211/95. Both texts establish the general principles for contributions towards travelling and subsistence expenses for external candidates admitted to participate in the written tests of a recruitment competition. In case the distance between the place of residence of the candidate and the place of the competition is more than 300 kilometres, candidates will receive a flat-rate contribution calculated on the basis of such distance. In case the distance is equal or superior to 1500 kilometres, candidates will receive 180 €. At this stage of the competition, the financial participation is only a flat-rate contribution and not a full reimbursement which is only foreseen for candidates admitted to the oral test.

All this information had been contained in the letter sent to the complainant with the invitation to the written tests. X was therefore informed thereof.

The complainant's observations

In his observations on the Commission's opinion, the complainant stressed that the Commission had not commented on the allegation that the rules on the reimbursement to candidates in open competitions are discriminatory against those candidates from distant Members States and favour those who live close to the place of competitions which is normally Brussels.

FURTHER INQUIRIES

After careful consideration of the Commission's opinion and the complainant's observations, it appeared that further inquiries were necessary. On 29 January 2003, the Ombudsman therefore wrote to the Commission. In his letter, he asked the institution to comment on the complainant's observations, in which she had taken the view that the Commission had not addressed her allegation that the relevant rules discriminate against candidates from distant Member States.

The Commission's second opinion

The institution recalled that the financial contribution given to candidates admitted to the written tests of an open competition for their travel expenses is calculated on the basis of the distance



between the place of residence of the candidate and the place of the competition, as long as such a distance is at least 300 kilometres. The contribution is going up according to the distance (for a distance between 301 and 800 kilometres candidates receive 60 €; when it is between 801 and 1500 kilometres they receive 120 € and when the distance is higher than 1500 kilometres candidates receive 180 €).

These are objective criteria applied to all candidates in an identical way and on the sole basis of the distance, without taking into account any other changeable parameter like the cost of living in the different countries or the transport connections between the place of residence of each candidate and the place of the competition.

On this basis, the Commission rejected the complainant's allegation regarding the discriminatory nature of these rules.

THE DECISION

1 Travelling and subsistence expenses of candidates in recruitment competitions

1.1 The complainant, who participated in competition COM/A/9/01, alleged that the rules adopted by the Commission for the reimbursement of travel expenses for candidates in open competitions are discriminatory against candidates from distant Member States. According to the complainant, these candidates are disadvantaged compared to those who live close to the place of competitions which is normally Brussels.

1.2 In its opinion, the Commission explained that the relevant rules are laid down in conclusion 211/95 that was adopted by the Heads of administration at interinstitutional level on 28 March 1996 and that entered into force on 1 April 1996. By an internal directive of 15 April 1996, the European Commission implemented conclusion 211/95. Both texts establish the general principles for contributions towards travelling and subsistence expenses for external candidates admitted to participate in the written tests of a recruitment competition. In case the distance between the place of residence of the candidate and the place of the competition is more than 300 kilometres, candidates will receive a flat-rate contribution calculated on the basis of such distance. In case the distance is equal or superior to 1500 kilometres, candidates will receive 180 €. At this stage of the competition, the financial participation is only a flat-rate contribution and not a full reimbursement. The complainant should be aware of this, since this information was contained in the letter sent to him with the invitation to the written tests.

1.3 In its second opinion, the Commission recalled the rules governing the financial contribution given to candidates admitted to the written tests of an open competition for their travel expenses. It pointed out that they are based on objective criteria applied to all candidates in an identical way and on the sole basis of the distance, without taking into account any other changeable parameter like the cost of living in the different countries or the transport connections between the place of residence of each candidate and the place of the competition.

1.4 The Ombudsman is not aware of any legal rule or Community law provision that would require the Commission to reimburse candidates in open competitions their travelling and



subsistence expenses. However, if the Commission decides to contribute to the payment of such expenses, it has to ensure respect for the principle of equal treatment. The criteria adopted by the Commission to contribute to the payment of candidates' travelling and subsistence expenses appear to be applied to all candidates in the same way and based on the objective parameter of the distance between their place of residence and the place of the examination. The system chosen by the Commission for the relevant financial contribution appears to be reasonable and not discriminatory against any of the candidates.

1.5 On the basis of the above, there appears to have been no maladministration by the Commission as regards this aspect of the case.

2 The complainant's claim

2.1 The complainant claimed that the Commission should adopt new rules for the reimbursement of travel expenses in order to guarantee a concrete equality of opportunities to potential candidates in open competitions.

2.2 In view of the conclusions at point 1.5 of the present decision, the Ombudsman does not consider it necessary to deal with this point.

3 Conclusion

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

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

Yours sincerely,

P. Nikiforos DIAMANDOUROS