

## **Decision of the European Ombudsman on complaint 1361/2002/GG against the European Commission**

Decision

**Case 1361/2002/GG - Opened on 24/07/2002 - Decision on 31/10/2002**

Strasbourg, 31 October 2002

Dear Mr C.,

On 20 July 2002, you made a complaint to the European Ombudsman concerning competition COM/C/1/01 organised by the European Commission.

On 24 July 2002, I forwarded the complaint to the President of the Commission. The Commission sent its opinion on 9 October 2002. I forwarded it to you on 16 October 2002 with an invitation to make observations, which you sent on 22 October 2002.

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

### **THE COMPLAINT**

The complainant took part in competition COM/C/1/01 organised by the European Commission in order to constitute a reserve of clerical assistants in the field of financial management and accounting. According to the notice of competition, only the candidates having the 250 highest marks in the preselection tests were to be allowed to take part in the written test. The complainant passed the three preselection tests and obtained an overall mark of 59.214 points (out of 80). At preselection test (c) which was meant to test candidates' knowledge of a second Community language, the complainant obtained 17.073 points (out of 20). However, the 250 highest marks obtained an overall score of 59.265 points.

Considering that his result was due to a mistake in the assessment of the test concerning the second language, the complainant turned to the Ombudsman (complaint 995/2002/GG). This complaint was rejected since no prior approaches had been made to the Commission.

The complainant then wrote to the Commission on 24 June 2002 which confirmed the marks the complainant had been given on 1 July 2002.

On 22 July 2002, the complainant submitted the present complaint to the Ombudsman in which



he alleged that a mistake must have occurred in so far as the correction of the language test was concerned. He argued that he had taken part in other competitions in the past and had consistently obtained the maximum result in the tests intended to assess his knowledge of a second Community language. The complainant submitted the results of a recent competition at which he had obtained 10 out of 10 points at the relevant test.

## THE INQUIRY

### **The Commission's opinion**

The Commission submitted copies of the complainant's optical character answer sheets, the tests in question and the key to the correct answers. The Commission pointed out that the complainant had given six incorrect answers in test (c).

The Commission further took the view that the complainant's argument according to which an error in marking must have occurred because he had previously always had maximum points in language tests was not convincing. The fact of having obtained better marks in other competitions, where the tests had been different, did not mean that any difference in performance was necessarily the result of an error in the test for the competition in question. The result of the test for this competition simply showed that the complainant had made more mistakes than in previous tests; although he had obtained a good result in the present test, this time it had not been the highest mark possible.

### **The complainant's observations**

In his observations, the complainant admitted that he had made mistakes at the test. However, he considered that he had correctly answered question 52 by choosing answer C and that the Commission was wrong when it considered answer D to be correct. In the relevant question, candidates had been asked to indicate who, according to the text that had been given to candidates, had to deal with a certain problem (1). The complainant subsequently took the view that after having compared the 'correct answer sheet' sent by the Commission with the answers that he had given he had come to the conclusion that he had not given a single incorrect answer.

## THE DECISION

### **1 Alleged mistake in the assessment of a preselection test**

1.1 The complainant took part in competition COM/C/1/01 organised by the European Commission. At preselection test (c) which was meant to test candidates' knowledge of a second Community language, the complainant obtained 17.073 points (out of 20). The complainant alleges that this must have been due to a mistake on the part of the Commission. He argues that he took part in other competitions in the past and consistently obtained the maximum result in the tests intended to assess his knowledge of a second Community language.

1.2 The Commission submitted copies of the complainant's optical character answer sheets, the tests in question and the key to the correct answers. On this basis, the Commission explains that the complainant's result was due to the fact that he had given given six incorrect answers in



test (c). The Commission further points out that the fact of having obtained better marks in other competitions, where the tests had been different, did not mean that any difference in performance was necessarily the result of an error in the test for the competition in question.

1.3 In his observations, the complainant argues that he provided the correct answer for one of the questions (question 52) that the Commission alleges he failed to answer correctly. The complainant also submits that he did not provide a single incorrect answer.

1.4 The Ombudsman considers that it appears from the documents submitted by the Commission that the position adopted by the latter is correct. In particular, the Ombudsman takes the view that the complainant has not established that he gave the correct answer to question 52.

## **2 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 Commission will also be informed of this decision.

Yours sincerely,

Jacob SÖDERMAN

(1) The relevant text reads as follows: "Problemen in verband met het systeem zelf moeten bij het hoofd van de dienst Voorraadbeheer worden gemeld, behalve wanneer het fouten in de serienummers betreft: daarvoor is dan weer zijn assistant verantwoordelijk." Question 52 is worded as follows: "Jan voert in de computer een serienummer in, en het systeem reageert niet. Wie moet dit probleem oplossen ? A. (.) B. (.) C. het hoofd van de dienst Voorraad. D. de assistent van de dienst Voorraadbeheer".