

Decision of the European Ombudsman on complaint 406/2003/(PB)IJH against the European Parliament

Decision

Case 406/2003/PB/IJH - Opened on 12/03/2003 - Decision on 30/09/2003

Strasbourg, 30 September 2003

Dear Mr X,

On 28 February 2003, you made a complaint to the European Ombudsman concerning the European Parliament's handling of your application for a high post within its services.

On 12 March 2003, I forwarded the complaint to the President of the European Parliament. Parliament sent its opinion on 10 June 2003. I forwarded it to you with an invitation to make observations, if you so wished. No observations appear to have been received from you.

At your request, your complaint has been treated confidentially, in accordance with Article 2 (3) of the Statute of the Ombudsman.

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

THE COMPLAINT

In February 2003, a complaint was made to the Ombudsman concerning the European Parliament's procedure for recruitment of a high post.

The complaint was classified as confidential, at the complainant's request, in accordance with Article 2 (3) of the Statute of the Ombudsman.

According to the complainant, the relevant facts are, in summary, the following:

Long before the closing date, the complainant submitted to the European Parliament an application for a high post, which had been published in a Recruitment Notice. On 26 February 2003, the complainant received an answer from Parliament saying that the Advisory Committee would not proceed with his application since his file could not be assessed due to lack of documentary proof of, among other things, his qualifications, as required by the recruitment notice.



The complainant accepts that Parliament has certain rules pertaining to applications. Nevertheless, he is of the opinion that Parliament should have informed him that they would have needed more documentation.

In substance, the complainant alleges that the European Parliament, in dealing with his application for recruitment under a particular Contract Notice, has not been service-minded enough, since it did not contact him to request more documentation.

The complainant claims that his application should be reopened.

THE INQUIRY

The European Parliament's opinion

The opinion of the European Parliament was, in summary, as follows:

When examining an application, the Advisory Committee is bound by the text of the recruitment notice, which in the current case stipulated that candidates had to enclose, with their letter of application, a detailed curriculum vitae and evidence of their education, professional experience and current post. When examining the complainant's application, the Advisory Committee found no documentary evidence of the statements made in the complainant's CV. The Advisory Committee was therefore unable to evaluate the complainant's application. It is for an applicant for a post advertised by recruitment notice to provide the Committee with all the information necessary to verify whether the applicant meets the conditions in the recruitment notice. According to firmly established case law, neither the administration, nor the Committee, is required to conduct inquiries with a view to verifying whether the applicants meet all the conditions in the contract notice.

The complainant was invited to submit observations on the European Parliament's opinion. No observations appear to have been submitted by the complainant.

THE DECISION

1 Alleged lack of service-mindedness

1.1 The complainant alleges that the European Parliament, in dealing with his application for recruitment under a particular Contract Notice, has not been service-minded enough, since it did not contact him to request more documentation.

1.2 The European Parliament argues that the Advisory Committee, when examining an application, is bound by the text of the recruitment notice, which in the current case stipulated that candidates had to enclose, with their letter of application, evidence of their education, professional experience and current post. The Parliament also points out that according to firmly established case law, it is not required to conduct inquiries with a view to verify whether the applicants meet all the conditions in the contract notice.



1.3 The Ombudsman notes that the right to good administration is one of the fundamental rights stemming from European citizenship (1) and that good administration includes, as the complainant points out, the requirement to be service-minded (2). In considering the application of the principles of good administration in the present case, the Ombudsman points out that recruitment to the Community institutions is governed by specific rules laid down in the Staff Regulations and in the case law of the Community courts, respect for which is necessary to ensure equality of treatment of candidates.

1.4 According to the case law, a candidate in a competition must provide the Selection Board with all the information and documents necessary to enable it to check that the candidate satisfies the conditions laid down in the notice of competition (3). The Selection Board cannot be required to make enquiries itself in order to ensure that candidates satisfy all these conditions (4). Moreover, the Selection Board is bound by the wording of the notice of competition (5). The Ombudsman is not aware of any reason why this case law should not apply to the Advisory Committee which dealt with the complainant's file.

In this case, the notice stated that, by the closing date, candidates must have produced the supporting documents for their diplomas and/or professional experience. In these circumstances, for Parliament to ask a candidate for more documentation could be inequality of treatment as regards, for instance, those candidates who complied with the notice of competition. The Ombudsman therefore considers that, in the present case, the European Parliament has respected the principles of good administration and therefore finds no maladministration. In view of this finding, the complainant's claim cannot be sustained.

2 Conclusion

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

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

Yours sincerely,

P. Nikiforos DIAMANDOUROS

(1) Article 41 of the Charter of Fundamental Rights of the European Union.

(2) Article 12 (1) of the European Code of Good Administrative Behaviour adopted by the European Parliament in its resolution C5-0438/2000 of 6 September 2001 (available on the Ombudsman's website: <http://www.ombudsman.europa.eu> [Link]).

(3) See e.g. Case 225/87, *Patricia Belardinelli and others v. Court of Justice of the European Communities* [1989] ECR 2353, paragraph 24, and Case T-133/89, *Jean-Louis Burban v. European Parliament* [1990] ECR II-245, paragraph 34.



(4) See e.g. Case T-133/89, *Jean-Louis Burban v. European Parliament* [1990] ECR II-245, paragraph 34.

(5) See e.g. Case T-54/91, *Nicole Almeida Antunes v. European Parliament* [1992] ECR II-1739, paragraph 39.