

Decision of the European Ombudsman on complaint 598/2003/ELB against the European Communities Personnel Selection Office

Decision

Case 598/2003/ELB - Opened on 22/04/2003 - Decision on 09/12/2003

Strasbourg, 9 December 2003

Dear Mr X.,

On 29 March 2003, you made a complaint to the European Ombudsman concerning your exclusion from competition COM/C/1/02 because of your insufficient results in test d).

On 22 April 2003, I forwarded the complaint to the Director of the European Communities Personnel Selection Office (EPSO). EPSO transmitted your complaint to the Commission, as formally this competition was organised by the Commission. On 4 June 2003, the Commission sent an opinion, which EPSO adopted on 23 June 2003. I forwarded the opinion 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 took part in competition COM/C/1/02 (French-speaking secretaries). He was informed by letter of 7 February 2003 that he had failed at selection test d) where he only obtained 9.2 points out of 20 and that he was excluded from the competition.

He asked for the copy of his test d), which he received as well as the original texts with the corrections. Test d) consisted of two texts in French containing spelling mistakes, grammatical and syntax errors. Candidates were penalised if they made additional corrections to the texts. The complainant did in fact make additional corrections, which do not appear in the original text with the corrections sent to him. He checked with the French Academy which considered his additional corrections to be justified.



He twice (on 4 and 14 March 2003) asked the President of the Selection Board to re-examine his test d). He confirmed his results and indicated that he had not been penalised for the additional corrections that he had made.

He claims that his exclusion from the competition should be explained and that his test should be re-examined.

THE INQUIRY

EPSO's opinion

The opinion adopted by EPSO can be summarised as follows :

Competition COM/C/1/02 was organised with a view to drawing up a reserve list of French-speaking typists. The complainant applied to this competition. As he was among the 1,000 best candidates after the preselection tests, he was invited to fill in an application form and then to take part in the written tests which took place on 29 November 2002 in Brussels.

Selection test d) aimed at assessing the candidates' command of the French language and consisted in the correction of two texts containing spelling mistakes, grammar and syntax errors. All papers were corrected anonymously by at least two examiners on the basis of the criteria established by the Selection Board. The Selection Board checked the correct application of these criteria and examined the comments made by the examiners. The Selection Board determined the results, which were communicated to the candidates.

On 7 February 2003, the complainant was informed of his results and of his exclusion from the competition.

Following the complainant's request, he received his paper for test d) and a corrected version of the test.

Following his first re-examination request, the President of the Selection Board confirmed his results on 12 March 2003 and explained that the text contained about a hundred mistakes of different nature and complexity, that a distinction had been made between these mistakes and that the importance of each mistake not corrected, or wrongly corrected, varied according to this distinction.

In reply to his second re-examination request, the President of the Selection Board informed him on 26 March 2003 that he had not been penalised for the corrections he had mentioned in his re-examination request.

According to established case law, a Selection Board is not obliged to specify the candidates' replies which were considered insufficient or why these replies were judged insufficient. It has also been recognised that the communication of the marks obtained in the different tests is a sufficient reasoning of the Selection Board's decisions.



Regarding the re-examination of the complainant's paper, all procedures have been complied with: the Selection Board took into account the various comments and carried out a conscientious re-examination of the complainant's file, but this re-examination did not lead the Selection Board to modify the complainant's marks.

THE DECISION

1 Alleged lack of explanation

1.1 The complainant took part in competition COM/C/1/02 (French-speaking secretaries). He was informed by letter of 7 February 2003 that he had failed at selection test d) and that he was excluded from the competition. The complainant claims that his exclusion from the competition should be explained and that his test should be re-examined.

1.2 EPSO argues that all procedures have been complied with, that the Selection Board took into account the various comments from the complainant, that it carried out a conscientious re-examination of the complainant's file, but that this re-examination did not lead the Board to modify the complainant's marks.

1.3 The Ombudsman recalls that, according to established case law (1), Selection Boards enjoy a wide margin of discretion as regards the arrangements for and the detailed content of the tests provided for within the framework of a competition and as regards the details and the content of the tests to be held in a competition (2). It is also established case law (3) that the communication of the marks obtained in the various tests constitutes an adequate statement of the reasons on which the Selection Board's decisions are based.

1.4 The Ombudsman notes that the President of the Selection Board informed the complainant that the text contained about a hundred mistakes of different nature and complexity, that a distinction had been made between these mistakes and that the importance of each mistake not corrected, or wrongly corrected, varied according to this distinction and that he subsequently informed him that he had not been penalised for the corrections he had mentioned in his re-examination request. The Ombudsman also notes that the complainant received a copy of his marked examination paper.

1.5 In the light of the above, the Ombudsman considers that the Selection Board has acted within the limits of its legal authority as regards the reasoning that it provided to the complainant and the re-examination of his test. The Ombudsman therefore finds no maladministration.

2 Conclusion

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

The Director of EPSO will also be informed of this decision.

Yours sincerely,



P. Nikiforos DIAMANDOUROS

(1) See Case T-132/89 *Galone v. Council* , [1990] ECR II-549, paragraph 27.

(2) See Case T-156/89, *Valverde Mordt v. Court of Justice* , [1991] ECR II-407, paragraph 121.

(3) Case C-254/95, *Parliament v. Innamorati* , [1996] ECR I-3423, paragraph 31.