

Decision of the European Ombudsman on complaint 322/2004/MHZ against the European Commission

Decision

Case 322/2004/MHZ - Opened on 12/02/2004 - Decision on 15/07/2004

Strasbourg, 15 July 2004

Dear Mr X.,

On 2 February 2004, you made a complaint to the European Ombudsman against the European Commission concerning the selection procedure for an ALAT (*Agent Local d'Assistance Technique*) vacancy in the field of democracy and human rights at the Commission Delegation in an African country.

On 12 February 2004, I forwarded the complaint to the President of the European Commission. On 2 June 2004, the Commission sent an opinion and I forwarded it to you with an invitation to make observations.

On 16 June 2004, I received your observations.

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:

In December 2003, the complainant was informed of an ongoing selection procedure for an ALAT - *Agent Local d'Assistance Technique* - vacancy in the field of democracy and human rights at the European Commission Delegation in an African country.

He also consulted a brief notice about the vacancy on the French Foreign Ministry web-site, which announced that interested candidates should address the Commission Delegation in an african country by e-mail.

On 22 December 2003, 29 December 2003 and 12 January 2004, the complainant sent e-mails to the Commission Delegation in an African country, as indicated in the notice on the French Foreign Ministry web-site, in order to receive detailed information on the relevant terms of



reference, job description and application procedure.

On 14 January 2004, he received a reply from the Head of the Commission Delegation in an African country informing him that the deadline for the post had elapsed two days before. There was no apology or explanation for not having replied earlier.

On 2 February 2004, he lodged a complaint with the European Ombudsman.

He alleged that the Commission Delegation failed to deal properly and promptly with his request for information and thus deprived him of the chance to participate in the selection procedure.

He claimed that the Commission should reopen the selection procedure for the ALAT vacancy. He also claimed that the Commission should provide him with all relevant information concerning the post and the selection procedure.

THE INQUIRY

The opinion of the Commission

The opinion can be summarized as follows.

After the Ombudsman had opened the inquiry and asked the Commission to comment on the complaint, the Commission contacted the Head of Delegation in an African country for an explanation. The Head of Delegation stated that he had become aware of the complainant's request for information only after the deadline for submitting applications had expired.

The Commission asked the Delegation to suggest to the complainant that he could submit a late application. As a result, the Delegation informed the complainant by e-mail (a copy of which was attached to the opinion) that he could submit his application late and also sent him the description of the post. The Head of Delegation also informed the complainant that the selection of candidates had not been concluded by the foreseen deadline, given the very low salary scale operating in an African country.

The Commission took the view that by offering the possibility of submitting a late application, the matter of the complaint could be resolved.

The Commission also pointed out that the admission of late applications was in compliance with the rules of the selection procedure.

Finally, the Commission stated that the complainant had submitted his application on 29 March 2004.

The complainant's observations

In his observations on the Commission's opinion, the complainant took the view that the Commission's position on his complaint was in accordance with the facts and he agreed that the case could be closed.



However he reserved the right to submit another complaint to the Ombudsman in the future, as eleven weeks after the event, he had still not received an answer to his late application for the post. In this context, he expressed his concerns that the approach undertaken by the Commission might have provided him with merely a formal and not a substantial chance to participate in the competition.

Finally, he thanked the Ombudsman and his staff for their availability, understanding and effective action.

THE DECISION

1 Opportunity to participate in a selection procedure

1.1 The complainant alleged that the Commission Delegation in an African country failed to deal properly and promptly with his request for information about a selection procedure for an ALAT (*Agent Local d'Assistance Technique*) vacancy in the field of democracy and human rights and thus deprived him of a chance to participate in the selection procedure.

The complainant claimed that the Commission should reopen the selection procedure for the ALAT vacancy and provide him with all relevant information concerning the post and the selection procedure.

1.2 The Commission informed the Ombudsman that following the opening of the Ombudsman's inquiry, the Delegation sent the complainant the description of the ALAT post and suggested to the complainant that he could submit his application late. The Commission also noted that the complainant had submitted an application on 29 March 2004 and pointed out that the admission of late applications was in compliance with the rules of the selection procedure. The Commission took the view that by offering the possibility of submitting a late application, the matter of the complaint could be resolved.

1.3 In his observations on the Commission's opinion, the complainant took the view that the Commission's position on his complaint was in accordance with the facts and he agreed that the case could be closed. However he reserved the right to submit another complaint to the Ombudsman in the future.

2 Conclusion

It appears from the Commission's opinion and the complainant's observations that the Commission has taken steps to settle the matter and has thereby satisfied the complainant. The Ombudsman therefore closes the case.

For the avoidance of doubt, the Ombudsman points out that the present decision does not prevent the complainant from submitting another complaint to the Ombudsman in the future if he considers that there is maladministration in the handling of his application for the ALAT post.

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

Yours sincerely,



P. Nikiforos DIAMANDOUROS