

Decision of the European Ombudsman on complaint 3715/2004/(PB)WP against the European Personnel Selection Office

Decision

Case 3715/2004/(PB)WP - Opened on 31/01/2005 - Decision on 14/12/2005

Strasbourg, 14 December 2005

Dear Mr P.,

On 14 December 2004, you made a complaint to the European Ombudsman concerning your participation in Open competition EPSO/A/8/03.

On 31 January 2005, I forwarded the complaint to the Director of the European Personnel Selection Office ("EPSO"). EPSO sent its opinion on 1 March 2005 and I forwarded it to you with an invitation to make observations, if you so wished, by 30 April 2005. No observations appear to have been received from you by that date.

Please note that, for reasons related to the internal organisation of my office's workload, your complaint was transferred to another legal officer, Ms Wiebke Pankauke, on 13 October 2005.

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

THE COMPLAINT

The complainant took part in Open competition EPSO/A/8/03, the object of which was to constitute a reserve of assistant administrators of Polish nationality in the areas of European Public Administration, Law, Economics and Auditing. On 12 December 2003, the complainant took the preselection tests (a), (b) and (c) and the written tests (d) and (e) in Warsaw.

On 5 February 2004, EPSO informed the complainant that he was not admitted to the next stages of the selection procedure. While having passed tests (a) and (b), he had achieved only 19 points out of 40 points in test (c), thus missing the required minimum of 20 points.

On 19 February 2004, the complainant wrote to EPSO to ask for a re-assessment of his result in test (c). He stated that, on the basis of notes he had made during the test, he had found out that he had answered at least half of the questions in test (c), that is, 20 questions, correctly.



In his complaint to the Ombudsman of 14 December 2004, the complainant alleged that EPSO had still not replied to his letter of 19 February 2004. He considered that this was in breach of the rules applying to the Open competition, laid down in the annex to the notice of competition in the Official Journal (C 120A/29 of 22 May 2003). Under the heading "Request for application to be reconsidered", the annex provides: *"The selection board will reply as soon as possible."*

The complainant enclosed a copy of the receipt of his letter ("Aufgabeschein"), which he had sent by registered post, issued by the Austrian postal service. He also sent his complaint letter of 14 December 2004 to EPSO.

On the basis of the above, the complainant's allegation and claim were the following:

The complainant alleged that EPSO had wrongly failed to respond to his request for a re-assessment of the result that he obtained in test (c).

The complainant claimed that the result that he obtained in test (c) should be re-assessed.

THE INQUIRY

EPSO's opinion

In its opinion on this complaint, EPSO explained that, after having received the complainant's letter of 14 December 2004, it had checked his file. However, it could not find any trace of his letter of 19 February 2004.

By letter of 20 January 2005, EPSO had informed the complainant on behalf of the Selection Board that his letter of 19 February 2004 had never been received. Furthermore, EPSO had informed him that it had now re-assessed his result in test (c) and that it had to confirm that the result of 19 points out of 40 points had been correct since he had given 19 correct and 21 wrong answers. EPSO had sent him a copy of the "optical reply form" and a list with the correct answers for test (c).

Given that the subject of the complaint to the Ombudsman was the same as the one addressed by the complainant in his letter to EPSO of 19 February 2004, EPSO hoped that the Ombudsman would be able to close this case on the basis of its reply to the complainant of 20 January 2005.

The complainant's observations

No observations were received from the complainant.

THE DECISION

1 Alleged failure to reply

1.1 The complainant took part in Open competition EPSO/A/8/03, the object of which was to constitute a reserve of assistant administrators of Polish nationality in the areas of European Public Administration, Law, Economics and Auditing. On 5 February 2004, EPSO informed the



complainant that he was not admitted to the next stages of the selection procedure because, in test (c), he had achieved only 19 points out of 40 points instead of the required minimum of 20 points.

1.2 On 19 February 2004, the complainant wrote to EPSO to ask for a re-assessment of his result in test (c). He stated that, on the basis of notes he had made during the test, he had found out that he had answered at least half of the questions in test (c), that is, 20 questions, correctly.

1.3 In his complaint to the Ombudsman, the complainant alleged that EPSO had not replied to this letter. He considered that this was in breach of the rules applying to the open competition. He enclosed a copy of the receipt ("Aufgabeschein") of his letter of 19 February 2004, sent by registered post, issued by the Austrian postal service. He also sent his complaint letter of 14 December 2004 to EPSO.

1.4 In its opinion, EPSO stated that, after having received the complainant's letter of 14 December 2004, it had checked the complainant's file but could not find any trace of his letter of 19 February 2004. By letter of 20 January 2005, it had informed the complainant on behalf of the Selection Board that his letter of 19 February 2004 had never been received. Furthermore, EPSO had informed him that it had now re-assessed his result in test (c) and that it had to confirm that the result that it had communicated to him previously had been correct since he had given 19 correct and 21 wrong answers. EPSO had sent him a copy of the "optical reply form" and a list with the correct answers for test (c).

1.5 No observations were received from the complainant.

1.6 The Ombudsman notes that the complainant has sent his letter of 19 February 2004 to EPSO by registered post. The receipt of the Austrian postal service ("Aufgabeschein") bears the date of 20 February 2004. However, the complainant has not submitted any evidence as to whether his letter was delivered to EPSO (such as a "Rückschein", an advice of delivery). From the documents submitted to the Ombudsman, it can therefore not be ascertained whether or not EPSO has indeed not received the complainant's letter.

1.7 Furthermore, the Ombudsman notes that EPSO replied to the complainant's letter of 14 December 2004 on 20 January 2005. EPSO stated that it had now re-assessed his result in test (c) and it confirmed the result it had communicated to him previously.

1.8 The Ombudsman considers that, by its letter of 20 January 2005, EPSO appears to have replied properly to the complainant's allegation and claim. The complainant has not made any observations on EPSO's opinion. In these circumstances, the Ombudsman finds no maladministration on the part of EPSO concerning this complaint.

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