

Decision of the European Ombudsman on complaint 3127/2006/DK against the European Commission

Decision

Case 3127/2006/DK - Opened on 07/11/2006 - Decision on 06/12/2007

Strasbourg, 6 December 2007

Dear Mr X,

On 3 October 2006, acting on behalf of Mr Y, you submitted a complaint to the European Ombudsman against the European Commission's Directorate General for Personnel and Administration, concerning the selection procedure for the post of Head of Representation of the European Commission in Hungary (COM/222/04).

On 7 November 2006, I forwarded the complaint to the President of the Commission. The Commission sent the English version of its opinion on 18 January 2007, and its translation on 7 February 2007. I forwarded it to you with an invitation to make observations, if you so wished. No observations 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 are, in summary, as follows:

In October 2004, Mr Y submitted his application for the post of Head of Representation of the European Commission in Hungary (Temporary agent - grade A*12), which was published in the OJ C252A of 12 October 2004 (COM/222/04). In March 2005, Mr Y was invited to an assessment centre for 4 April 2005, and to interview with the preselection panel on the next day.

By e-mail of 10 October 2005, Mr Y contacted the Commission, DG ADMIN, and requested that the result of his evaluation by the assessment centre be sent to him. On the same day, DG ADMIN replied that "*it is decided not to send any AC [assessment centre] reports to the candidates; they are considered to be highly confidential*". Still on the same day, Mr Y sent a second e-mail and stressed in particular that he was interested only in his own personal evaluation.



On 8 November 2005, DG ADMIN replied to him explaining that " *your AC report for the above mentioned post publication was accessible exclusively by a strictly limited number of EC officials and only for the time of their assignment with the specific selection procedure. DG ADMIN's decision is to keep the AC report of each candidate (for any post published) confidential and only for the purposes of a selection procedure.* "

In his complaint to the Ombudsman, the complainant stated that this practice of the Commission is contrary to Point 6.4 of the Guidelines for candidates on senior management appointment procedures, which provides that " *[o]nce the procedure has been completed candidates may request feedback from the HR Consultant on their performance at the assessment centre.* "

The complainant alleged that

- the European Commission has failed to provide Mr Y with a copy of the assessment report;
- the principle of non-discrimination has been violated during the selection procedure for the post of Head of Representation of the European Commission in Hungary.

The complainant claimed that Mr Y should be provided with information on the result of the evaluation carried out by the assessment centre in general, and with a copy of the assessment report in particular.

By letter of 7 November 2007, the Ombudsman informed the complainant that his second allegation was inadmissible on the basis of Article 2(4) of the Statute of the European Ombudsman because the complainant had not made prior administrative approaches to the Commission in this regard. The Ombudsman therefore asked the Commission to submit an opinion only on the first allegation and on the claim.

THE INQUIRY

The Commission's opinion

In its opinion, the Commission stated that, in the meantime, the European Personnel Selection Office ("EPSO") had adopted a policy whereby it provides candidates, upon their request, with a copy of the report of the assessment centre, organised in the context of middle management competitions. The posts of Heads of Representation are middle management positions and the same assessment centre is used in the context of the selection procedure as for the middle management competitions run by EPSO. With a view to ensuring policy coherence and the equal treatment of candidates, the Commission had decided to adopt the same approach. Hence, a copy of the assessment centre report had already been sent to the complainant.

The Commission concluded by stating that it has given a satisfactory response to the present complaint by sending a copy of the assessment centre report to the complainant.

The complainant's observations

No observations were received from the complainant.



THE DECISION

1 Allegation that the Commission failed to provide Mr Y with a copy of the assessment report and the relevant claim

1.1 In his complaint to the Ombudsman, the complainant alleged that the Commission failed to provide Mr Y with a copy of the assessment report.

1.2 In its opinion, the Commission pointed out that a copy of the assessment centre report had, in the meantime, been sent to the complainant. The Ombudsman forwarded the Commission's opinion to the complainant, who did not submit any observations.

1.3 In view of the above, it appears that, in the course of the present inquiry, the Commission has taken adequate action in response to the complainant's allegation and has thereby settled the matter. Therefore, the Ombudsman will close the case.

2 Conclusion

It appears from the Commission's opinion that, in the course of the present inquiry, the Commission has taken adequate action in response to the complainant's allegation and has thereby settled the matter. The Ombudsman therefore closes the case.

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

Yours sincerely,

P. Nikiforos DIAMANDOUROS