

Decision of the European Ombudsman closing the inquiry on complaint 346/2007/DK against the European Personnel Selection Office

Decision

Case 346/2007/DK - Opened on 23/03/2007 - Decision on 23/09/2008

THE BACKGROUND TO THE COMPLAINT

1. In June 2005, EPSO issued an invitation for expression of interest (entitled 'CAST 25'), with the aim of establishing a database of applicants to be recruited as contract staff to carry out various tasks within the European Union institutions. The complainant submitted his application in accordance with the required procedure and selected function group IV as his chosen field, namely, (Natural Sciences) Biotechnology. On 4 October 2005, EPSO informed the complainant that it had accepted his application and that he would therefore be invited to take part in the admission tests. He successfully passed the verbal and numerical reasoning tests, and was subsequently, on 27 February 2006, invited via his EPSO profile to the second stage of the selection procedure, namely, the competence test in his chosen field. On 7 September 2006, EPSO informed the complainant that the competence tests for his chosen field would take place on 17 November 2006. On 20 October 2006, EPSO sent a letter to the complainant, inviting him to the competence test. Enclosed with the letter were the 'Instructions to applicants' on the organisation of these tests, including instructions on how to use the optical answer sheet. The complainant sat the competence tests in Milan on 17 November 2006.

2. On 24 November 2006, the complainant sent an e-mail to EPSO, explaining that the optical answer sheet he had received was defective. As a result, he was unable to distinguish the borders of the tick boxes and was therefore obliged to complete the answer sheet by merely estimating where the tick boxes were. He immediately informed the invigilators of this fact, who agreed that there was a problem and advised him to attach to the defective optical answer sheet, on which he had marked his answers, so that it could be considered together for the test correction and marking. The complainant pointed out in his e-mail to EPSO that the invigilators' advice conflicted with the 'Instructions to applicants', which stated that answers on question papers cannot be taken into account. He therefore asked EPSO to clarify the matter. On the same day, EPSO replied that all applicants' optical answer sheets were being scanned and that the results would be published on the applicants' EPSO profiles. The complainant replied, again on the same day, asking EPSO whether the question paper would be corrected in view of the



problem he had described in his first e-mail. On 27 November 2006, EPSO replied that this was not possible. On 7 December 2006, the complainant replied to EPSO and asked where he could file a complaint against it because of the facts that (i) his optical answer sheet was defective and (ii) he was provided erroneous oral information by the invigilators. On 14 December 2006, EPSO replied to the complainant as follows:

"(...) the procedure of test using a pink answering sheet F1 has been in use for many years for thousands of candidates with no complaints at any time about the visibility of the boxes. We have further looked of [sic] the particular answer sheet you had been given, which has absolutely no anomalies. It is evident that you did not follow the instructions, which all candidates received in writing and that were repeated orally. It is only because you were extremely insistent that invigilators finally collected your question booklet. What counts however is the instructions given to all candidates and these were very clear: only the optical answering sheets would be corrected. We regret that you feel you had a problem distinguishing the boxes: however EPSO cannot take this into account. "

3. On 30 January 2007, the complainant submitted the present complaint to the Ombudsman regarding the above matter.

THE SUBJECT-MATTER OF THE INQUIRY

4. In his complaint to the Ombudsman, the complainant made the following allegations and claim:

- EPSO provided him with a defective optical answer sheet where tick boxes were missing; and
- EPSO failed to address adequately his allegation that he had received erroneous verbal information from the invigilators about how to deal with the problem of the defective optical answer sheet.

The complainant claimed that, in case the optical answer sheet were to prove to be defective, his test answers should be re-examined and re-evaluated.

5. In this context, the complainant requested the Ombudsman to inspect his optical answer sheet, stating that if the Ombudsman were to find that it had no anomalies, his complaint to the Ombudsman should be automatically considered void and he would apologise to EPSO.

THE INQUIRY

6. By letter of 23 March 2007, the Ombudsman forwarded the complaint to EPSO for an opinion. In the same letter, the Ombudsman also asked EPSO to arrange for an inspection of the complainant's optical answer sheet.

7. The inspection took place on 7 June 2007 at EPSO's premises in Brussels, during which the Ombudsman's services examined the original optical answer sheet which was provided to the



complainant for the competence test.

8. On 15 June 2007, EPSO submitted its opinion in French, and sent its English translation on 5 July 2007. The latter was forwarded to the complainant, inviting him to submit observations by 31 August 2007. In the same letter, the Ombudsman also informed the complainant about the inspection carried out by his services. No observations were received from the complainant, nor has he commented on the findings of the inspection.

THE OMBUDSMAN'S ANALYSIS AND CONCLUSIONS

A. The allegation that EPSO provided the complainant with a defective optical answer sheet where tick boxes were missing

Arguments presented to the Ombudsman

9. The complainant argued that the optical answer sheet, provided to him for the competence test in Open Competition EPSO CAST 25, was defective. As a result, he was unable to distinguish the borders of the tick boxes and was therefore obliged to complete the answer sheet by merely estimating where the tick boxes were.

10. In its opinion, EPSO essentially referred to the contents of its correspondence with the complainant described above under point 2, and maintained its position expressed therein.

The Ombudsman's assessment

11. On 7 June 2007, the Ombudsman's services inspected the complainant's original optical answer sheet at EPSO's premises in Brussels. This involved a careful examination of the complainant's original optical answer sheet, which was then compared with a blank, unused optical reader answer sheet having the same colour combination (pink-white). This revealed that the complainant's original optical answer sheet had no visible anomalies or irregularities, and that the tick boxes were clearly distinguishable on the form.

12. In light of the above-mentioned factual findings, the Ombudsman considers that the complainant's first allegation has not been justified.

B. The allegation that EPSO failed to address adequately the complainant's allegation that he had received erroneous verbal information from the invigilators about how to deal with the problem of the defective optical answer sheet

13. In light of the facts revealed at the Ombudsman's inspection referred to above, EPSO's



response to the complainant's grievances appears to have been both timely and correct. In fact, EPSO's letter of 14 December 2006 to the complainant specifically addressed the complainant's allegation concerning erroneous information received from an invigilator, and explained that all instructions to candidates were provided in writing. EPSO added that it was only due to the complainant's insistence that the invigilators finally collected his question paper on which he had also indicated his answers. EPSO maintained that what was relevant, however, were the instructions given to all candidates in writing and that these were very clear in stating that only the optical answer sheets would be taken into consideration.

14. The Ombudsman therefore finds that the complainant's second allegation has not been justified.

C. Conclusions

In view of the above, the Ombudsman finds that there has been no maladministration on the part of EPSO. The Ombudsman therefore closes the case.

P. Nikiforos DIAMANDOUROS

Done in Strasbourg on 23 September 2008