

## Decision of the European Ombudsman closing the inquiry into complaint 299/2014/TN against the European Commission

Decision

**Case 299/2014/TN - Opened on 04/04/2014 - Decision on 06/08/2014 - Institution concerned** European Commission ( No maladministration found ) |

The case concerned a visually impaired person wishing to become a freelance interpreter for the EU administration. He was concerned, however, that he had not been allowed to sit the freelance interpreter test three times under conditions which took account of his disability. The Commission, which is responsible for the Test Office organising the tests, explained that there is no right to sit the test three times. The Ombudsman accepted the Commission's explanation and concluded that there had been no maladministration. She made suggestions to improve information to applicants with special needs.

### The background to the complaint

1. The complainant is a visually impaired interpreter who was unsuccessful in his attempts to be placed on a list of accredited freelance interpreters for the EU administration.
2. Following a complaint to the Ombudsman in 2009 [1] , the Ombudsman found that the Inter-institutional Test Office, which is run by the European Commission, should have taken account of the complainant's disability when conducting the tests the complainant took part in.
3. As a result of the Ombudsman inquiry, the Commission agreed to test the complainant again. The complainant sat the tests again, on two occasions, and failed both times. When he was not given a third opportunity to resit the tests, the complainant again turned to the Ombudsman.

### The inquiry

4. The Ombudsman opened an inquiry into the complaint and identified the following allegation and claim:



1) The Test Office's refusal to give the complainant the usual three attempts to sit the accreditation test for free-lance interpreters, under conditions taking into consideration his disability, constitutes discrimination.

2) The Test Office should allow the complainant a third attempt to sit the accreditation test, under conditions which take into consideration his disability.

5. The Ombudsman investigated the complaint by way of a simplified procedure, through which she put forward her preliminary analysis of the matter to the relevant Commission services and asked it for a rapid response to the complainant's concerns [2] . In her preliminary analysis, the Ombudsman noted that visually impaired candidates should be put in the same situation as other candidates. They should thus be allowed to use all necessary technical tools during the tests. She noted that it appeared from the information submitted by the complainant that candidates are normally given three attempts to pass the accreditation test. It also appeared that the complainant had only been given two opportunities to sit the test under conditions which took into account his disability. The Ombudsman asked the Commission to address the complainant's concern with a view to seeking a rapid solution to the issue. The Ombudsman asked the Commission to bear in mind the relevant articles of the Charter of Fundamental Rights of the EU [3] and the UN Convention on the Rights of Persons with Disabilities [4] .

## **Alleged failure to give appropriate number of test opportunities**

### **Arguments presented to the Ombudsman**

6. In response to the Ombudsman's preliminary analysis, the Commission explained that there is no rule guaranteeing a minimum of three attempts to sit the tests. The Commission also stated that it took account of the complainant's disability by giving him tests composed of four simultaneous interpretations (instead of two consecutive and two simultaneous interpretations).

7. In his comments on the Commission's response, the complainant argued that he should have been informed, well in advance, that he would sit only simultaneous interpretation tests.

### **The Ombudsman's assessment**

8. The Ombudsman finds no maladministration by the Inter-institutional Test Office in respect of the issue complained about, namely whether the complainant should have been given a third attempt to resit the tests. She finds, specifically, that the Commission had no obligation to offer the complainant more than one opportunity to resit the tests under conditions which took account of his disability. Indeed, the Ombudsman notes, the Commission acted reasonably to the complainant by offering him two opportunities to resit the tests under such conditions.



9. Although the complainant's disability was taken into consideration for his resits, the procedure for doing so does not seem to have been entirely straightforward. In particular, the complainant appears to have been informed rather late that the Commission had altered the procedure so that he would not have to do consecutive interpretation. Instead, he only had to do simultaneous interpretations (simultaneous interpretations are, it appears, easier for persons with sight impairments). The Ombudsman will thus make further remarks in the hope of further improving the treatment of candidates with disabilities.

## Conclusion

On the basis of the inquiry into this complaint, the Ombudsman closes it with the following conclusion:

**There has been no maladministration by the Inter-institutional Test Office.**

The complainant and the Commission will be informed of this decision.

## Further remarks

**(i) The Commission should, when inviting an applicant with special needs for a test, contact the applicant as soon as possible to get a full understanding of his or her needs and to discuss possible technical solutions related thereto; and**

**(ii) The Commission should also update the Ombudsman as regards whether the question about applicants' special needs has now been included in the online registration form, as the Commission committed to do in the context of the case from 2009.**

Emily O'Reilly

Done in Strasbourg on 6 August 2014

[1] 2295/2009/(TN)ELB

[2] The Ombudsman contacted the Commission on 9 April 2014 and the Commission responded to the complainant's concerns on 22 April 2014. The complainant submitted observations on the response on 29 May 2014.

[3] Articles 21 and 26.

[4] For instance Article 27.