

Decision of the European Ombudsman closing his inquiry into complaint 3082/2009/MHZ against the European Commission

Decision

Case 3082/2009/MHZ - Opened on 02/02/2010 - Decision on 20/12/2010

The complainant, a Polish student in her fourth year of studies, was not accepted to the Commission's traineeship programme because she had not yet completed her studies. At the time, her university was in the process of adopting the 'Bologna process' rules. As a result, some students in her faculty were still studying under the previous system, which required five years of study before a (master's) degree could be obtained. Some students were, however, studying under the new system and could obtain a bachelor's degree after only three years.

The complainant considered that it would be fair for the Commission to take this situation into account and accept both categories of students for its traineeship after three years of studies. She therefore turned to the Ombudsman.

In its opinion, the Commission concluded that it does not intend to change its policy and insisted on its rule that candidates can only apply once they have completed a full cycle of studies and obtained their degree. The Commission also insisted that it does not intend to take into account equivalent lengths of study or amounts of credit obtained in other educational cycles.

The Ombudsman noted that, on its relevant website, the Commission informs candidates in an appropriate way about the requirements concerning "basic diplomas". In light of the undeniable discretion the Commission enjoys when setting the conditions for admission to its traineeship programme, the Ombudsman considered that the Commission's policy did not constitute a manifest error. He therefore concluded that it served no purpose for him to inquire further into this matter.

The background to the complaint

1. The 'Bologna Process' has been implemented in 29 European countries by their respective Ministers for education. Its purpose was to create a European Higher Education Area by making academic degree standards and quality assurance standards more comparable and compatible throughout Europe. The Bologna Declaration was signed in 1999. In 2005, the Bergen



Declaration introduced a basic framework of three cycles of higher education qualifications: the first cycle, usually awarding a bachelor's degree after three years of studies (a minimum of 180 European Credit Transfer and Accumulation System credits ('ECTS credits'); 60 ECTS corresponds to one academic year); the second cycle, awarding a master's degree (90-120 ECTS credits); and the third cycle, awarding a doctoral degree (no ECTS range was defined).

2. The complainant studied in a Polish University which was in the process of adopting the relevant 'Bologna Process' rules. In August 2009, after having completed four years of studies, she applied for a traineeship at the Commission.

3. On 4 November 2009, her application was rejected on the ground that she did not hold a degree obtained after completing at least the first cycle of university education (a bachelor's degree). The Commission referred to point 2.2.1 of the Commission's Rules governing the official traineeships scheme of the European Commission [1] [\[Link\]](#), which provides that "*candidates must have completed the first cycle of a higher education course (university education) and obtained a full degree or its equivalent by the closing date for applications.*"

4. On 19 November 2009, the complainant asked the Commission to reconsider its above decision. She outlined that students in her faculty were following two different cycles of studies. The first group of students (to which the complainant belongs) started their studies before the Bergen Declaration was signed. These students needed to study for five years before obtaining their first degree. In other words, they would be awarded a master's degree after five years of study but could not be awarded a bachelor's degree in the meantime. The second group of students started their studies after the Bologna Process and would obtain their bachelor's diploma after three years of studies. After obtaining their degree, they could decide whether or not to complete an additional two years of master's degree studies. She concluded that, as a student of a pre-Bologna cycle of studies, she was discriminated against because she could not apply for the Commission traineeship after three years of studies. She also stated that, when she applied for the traineeship, she had already completed four years of her master's degree programme. At that time, she believed she had the same amount as, or even greater knowledge than, students who had obtained their bachelor's degree after three years of studies at the same faculty.

5. On 2 December 2009, the Commission replied to the complainant stating that she had misunderstood the nature of its traineeship programme. The Commission clarified that the aim of this programme is not to offer a traineeship "*in the framework of university studies*", but rather "*a first professional experience to young university graduates*". Trainees work as administrative officers at the Commission's services and they need to have obtained "*a job qualification*". For this reason, the Commission asks for a full degree and does not accept ECTS equivalents. The Commission stated that, "*although we have the Bologna process, many countries still have cycles of more than 3 years*". The candidates who are registered for studies that last longer than three years can only apply for a traineeship with the Commission once they have completed their full cycle of studies and obtained the relevant degree. The Commission concluded that it applies the same criteria as EPSO and rejected the complainant's appeal.



6. The complainant was not satisfied with the above reply and turned to the Ombudsman.

The subject matter of the inquiry

7. The Ombudsman decided to open the present inquiry into the following allegation [\[2\]](#) [\[Link\]](#) and claim:

Allegation:

By rejecting her application, the Commission acted unfairly.

Claim:

The Commission should change its rules on traineeships or interpret them in a way as to take account of the situation of students of faculties undergoing the transitional period of adopting the relevant Bologna Process rules. As a result, these students, including the complainant, would qualify for the Commission's traineeships.

The inquiry

8. The complaint was sent to the Ombudsman on 10 December 2009. On 2 February 2010, the Ombudsman opened an inquiry and sent the complaint to the Commission with a request for an opinion. On 5 May 2010, the Commission sent its opinion. Subsequently, it sent a translation of the opinion into Polish, which was forwarded to the complainant with an invitation to submit observations by 30 June 2010. No observations were received from the complainant.

The Ombudsman's analysis and conclusions

A. Alleged unfair rejection of the complainant's application for a traineeship and related claim

Arguments presented to the Ombudsman

9. In support of her allegation, the complainant argued that the Commission failed to consider the situation of students in universities which were in the transitional period of adopting the relevant rules of the Bologna process.

10. Moreover, she argued that the Commission's statement, in its reply of 2 December 2009 concerning the objective of the traineeship programme, was not satisfactory because she did not want to do the traineeship " *in the framework of her University studies* ". She pointed out that



she had already completed this kind of traineeship.

11. In its opinion, the Commission reiterated its earlier view that the complainant had misunderstood the nature of the traineeship programme. It underlined that the aim of its traineeship is " *to offer a first professional experience to young university graduates* ".

12. The Commission recalled that some studies last more than three years and some last only three years. This difference in the length of studies depends on how a given university has set up the study courses leading to the relevant degree. Despite the Bologna Process, many universities still have cycles of studies lasting more than three years. This fact does not, however, affect the complainant's situation.

13. The Commission emphasised that it is consistent in its approach towards candidates for 'Administrator' functions within the institution. Both EPSO and the Commission's Traineeships Office require candidates to have obtained a full university degree. This is clearly stated in the eligibility criteria on the Commission's website. Candidates can thus apply once they have completed a full cycle of studies and have obtained their degree. Equivalent lengths of study in other educational cycles are irrelevant in this respect.

14. The Commission concluded that it does not intend to change its policy on this issue.

The Ombudsman's assessment

15. At the outset, the Ombudsman thanks the Commission for making clear that its trainees carry out the same kind of duties as the Commission's administrators. They therefore need to have the same academic qualifications as those required from candidates applying for administrator posts. The Commission also clearly outlined the objectives of its traineeship programme.

16. The Ombudsman emphasises that the Commission has discretion when deciding on the eligibility conditions for the traineeships it offers. He considers that, on its relevant website, the Commission informs candidates about these conditions in an appropriate way and, in particular, on how they should understand the requirement concerning basic diplomas [\[3\]](#) [\[Link\]](#). Finally, the Ombudsman considers that, in the present case, the Commission correctly applied its current rules governing the official traineeships scheme.

17. By opening the present inquiry, the Ombudsman wished to share with the Commission the complainant's and his own concern that there is a group of qualified young persons who may well have the competences to deal with the tasks foreseen by the Commission for its trainees. However, because they are somehow " *victims* " of the transition process at their universities, when these universities are adapting their programmes of studies to the Bologna Process, they cannot apply for the Commission's traineeships. As it was rightly argued by the complainant in her correspondence with the Commission, some students started their studies when the bachelor's degree was not yet foreseen. This cohort of students needed five years to obtain



their first degree, (a master's degree), while those who started their degrees after the Bologna process only need three years to receive their first degree (a bachelor's degree). The master's degree of five years should have more weight than the bachelor's degree of three years. It follows that, after three years of studying for the master's degree, students may have similar knowledge to those graduates who studied the bachelor's degree. It would appear that the former could comply with the duties of Commission trainees in a same way as the latter. The administrative discretion when assessing diplomas to select trainees is not the same, as the discretion when assessing diplomas for the purposes of recruiting an official (this last process is covered by the Staff Regulations.) The Ombudsman could thus not exclude, when opening his inquiry, that the Commission may have decided to adopt " *transitional Bologna rules* " to its traineeship programme and also take into account the " *European Credit Transfer and Accumulation System* " for the purpose of evaluating traineeship applications.

18. However, the Commission **firmly** excluded any changes to its current traineeship policy and insisted on its rule that candidates can only apply once they have completed a full cycle of studies and obtained their degree . The Commission also insisted that it does not intend to take into account equivalent lengths of studies or amounts of credits in other educational cycles.

19. In light of the undeniable discretion the Commission enjoys when setting the conditions for admission to its traineeship programme, the Ombudsman takes the view that the Commission's policy approach cannot be considered to constitute a manifest error. He therefore concludes that no further inquiries are justified into this matter. Accordingly, he closes the case.

B. Conclusions

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

No further inquiries are justified.

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

P. Nikiforos Diamandouros

Done in Strasbourg on 20 December 2010

[1] [\[Link\]](#) Decision of the European Commission of 2 March 2005, C(2005)458.

[2] [\[Link\]](#) In her complaint, the complainant also submitted an allegation that the Commission discriminated against her and compared her to graduates who could receive their first diploma after three years of studies and not five. The Ombudsman did not find sufficient grounds to deal with this allegation. He referred to the well established case-law of the Union courts, which



provides that the principle of equal treatment (or non-discrimination) is breached when two categories of persons whose legal and factual circumstances disclose no essential difference are treated differently (for instance Case T-211/95 Petit-Laurent v Commission [1997] ECR-SC I-A-21 and II-57, paragraph 56). In the complainant's case, however, there was a factual difference between students who started their studies before and after the Bologna Process.

[3] [\[Link\]http://ec.europa.eu/stages/rules/rules_en.htm \[Link\]](http://ec.europa.eu/stages/rules/rules_en.htm). The Commission put forward the following information under the heading "Annex I- Basic diplomas required for the traineeship". "*In many countries university reforms are under way. Therefore it is not possible at present to give a complete list of basic diplomas. Please note that you can only apply once you have been awarded a University level diploma requiring at least three years study (see point 2.2 of the rules). **ECTS points are not accepted as degree equivalent** .*" (emphasis added by the Commission)