

Decision of the European Ombudsman closing the inquiry into complaint 1385/2014/PL against the European Union Institute for Security Studies

Decision

Case 1385/2014/PL - **Opened on** 04/09/2014 - **Decision on** 23/06/2015 - **Institution concerned** European Union Institute for Security Studies (No maladministration found) |

The case concerned a candidate's request for information on his performance during a selection process and the possibilities to lodge a complaint against the selection board's decision. The European Union Institute for Securities Studies did not provide the complainant with the requested information, therefore the complainant turned to the Ombudsman alleging lack of transparency in the selection procedure. The Ombudsman inquired into the issue and concluded that, in light of the further explanations provided during the inquiry, no maladministration by the Agency could be found.

The background to the complaint

1. In April 2014, the complainant applied for a position as Head of the Administration and Personnel at the European Union Institute for Securities Studies (EUISS). He was selected to participate in the first round of interviews. Following his interview, the EUISS informed him, without further explanation, that he had not been shortlisted for the final phase of the selection process.
2. The complainant requested information concerning (a) his performance during the interview and (b) the administrative procedures to lodge a complaint. The EUISS informed him that the Agency's internal rules did not provide for a legal obligation to give detailed feedback to candidates, even to those who were shortlisted and interviewed. The EUISS did not inform him about the possibilities for appeal either.
3. On 7 August 2014, the complainant turned to the Ombudsman with this complaint.

The inquiry

4. The Ombudsman opened an inquiry into the allegation that the EUISS failed to provide



grounds for its decision not to shortlist the complainant. Following initial contacts with the EUISS, the Ombudsman was not satisfied with its reply.

5. In light of this, the Ombudsman requested the EUISS to provide a formal opinion on the allegation that it had failed to handle the selection procedure in a transparent manner and the claim that it should provide the requested information.

6. In the course of the inquiry, the Ombudsman received the opinion of the EUISS on the complaint and, subsequently, the comments of the complainant in response to the EUISS's opinion. The Ombudsman also inspected the EUISS's file in this case. In conducting the inquiry, the Ombudsman has taken into account the arguments and opinions put forward by the parties.

Alleged failure to handle the selection procedure in a transparent manner

Arguments presented to the Ombudsman

7. The complainant argued that the EUISS had failed to provide sufficient grounds for its decision not to shortlist him, failed to record the assessment of the interviewed candidates and failed to provide information as regards the administrative procedure to lodge a complaint. The complainant concluded that the selection procedure lacked the required transparency.

8. In its opinion, the EUISS acknowledged that the complainant should have received a more detailed feedback following his interview and announced that, in future selection procedures, it intended to provide candidates, upon request, with a detailed individual report on their performance. Concerning the complainant's performance, it explained that it had considered it insufficient, his presentation poor and his profile not sufficiently relevant for the Institute's activities.

9. As regards the work of the Selection Board, the EUISS stated that it had duly recorded the assessment of candidates during the selection procedures, as verified by the Ombudsman's inspection.

10. Finally, the EUISS explained that there is a gap in its internal rules as regards complaints procedures for non-staff members such as candidates in recruitment procedures. It confirmed, however, that the rules are currently being reviewed and that it intends to insert standard wording in vacancy notices providing information on complaints/appeals procedures.

11. The complainant did not submit any observations.

The Ombudsman's assessment



12. The duty to state grounds for decisions is a general principle of good administrative behaviour and should apply in all dealings between institutions and the public. [1] Unsuccessful candidates in recruitment competitions thus have a right to receive information as to why their application was rejected. At the same time, however, the EU courts have recognised that the secrecy surrounding selection procedures *“precludes both disclosure of the attitudes adopted by individual members of selection boards and disclosure of any factors relating to individual or comparative assessments of candidates”*. [2] Institutions, therefore, need to reconcile the secrecy of the proceedings of the selection board with the requirements of transparency. [3]

13. The Ombudsman welcomes the EUISS acknowledgement that its initial replies failed to provide the complainant with sufficient information to satisfy its duty to provide grounds for its decision. She also welcomes the Institute's commitment to keep this in mind in future recruitment procedures and provide candidates with individual reports on their performance, upon request.

14. In its opinion, the EUISS elaborated on the reasons for not shortlisting the complainant in this case. These reasons reflect the assessment carried out by the Selection Board, recorded in the evaluation sheets that the Ombudsman had access to during the inspection.

15. Finally, concerning information about the possibilities to lodge a complaint, institutions have a duty to provide information on the appeal possibilities available for challenging decisions that may adversely affect the rights or interests of a private person. [4] The Ombudsman is thus pleased to note that the EUISS is planning to proactively inform candidates in selection procedures on the appeal possibilities. It will be helpful if this includes information on their right to complain to the Ombudsman.

Conclusion

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

In light of the information provided by the EUISS in its opinion, and following her inspection of the EUISS's file, the Ombudsman finds no maladministration.

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

Emily O'Reilly

Strasbourg, 23/06/2015



[1] Article 18 of the European Code of Good Administrative Behaviour

[2] Case F-127/11, De Mendoza Asensi v Commission, paragraph 93

[3] Case T-72/01 Pyres v Commission, paragraphs 70-71

[4] Article 19 of the European Code of Good Administrative Behaviour