

Decision of the European Ombudsman closing the inquiry into complaint 298/2013/CK against the European Commission

Decision

Case 298/2013/CK - **Opened on** 22/03/2013 - **Recommendation on** 16/05/2014 - **Decision on** 24/06/2015 - **Institution concerned** European Commission (Draft recommendation accepted by the institution) |

The case concerned a number of alleged irregularities regarding a selection process for a grant holder position at the Joint Research Centre (JRC). The Ombudsman inquired into the matter and found irregularities (i) in the establishment and application of the different selection criteria and (ii) in the tasks undertaken by the Recruitment and Training Unit. She made a recommendation to the JRC and asked it to acknowledge these irregularities, apologise for them and take measures to improve matters. In its reply, the JRC acknowledged that the selection procedure was tainted by a number of weaknesses relating to the selection criteria and apologised to the complainant. It also informed the Ombudsman that it has taken a number of initiatives to improve its selection procedures and avoid similar problems in the future. The Ombudsman concluded that the Commission had accepted her recommendation and closed the case.

The background

1. The complainant applied for a grant holder position at the Institute of Environment and Sustainability (IES) of the Joint Research Centre (JRC) [1] of the European Union. Although he was successful in the screening stage of the applications and was interviewed by the Selection Committee, his name was not placed on the pre-selection list.

2. The complainant wrote to the JRC requesting information regarding his performance during the interview and the evaluation criteria which the Selection Committee relied upon. Following an exchange of several e-mails with the JRC, the complainant turned to the Director of the JRC. He complained that the selection procedure was not conducted in line with the applicable rules and lacked clarity. Dissatisfied with the JRC's response to his grievances, the complainant complained to the European Ombudsman on 9 February 2013.

3. The Ombudsman opened an inquiry into the complaint. In the course of the inquiry, the



Ombudsman received the opinion of the Commission on the complaint and, subsequently, the comments of the complainant on the Commission's opinion [2] .

Alleged irregularities regarding the selection procedure and related claim

The Ombudsman's draft recommendation

4. After having thoroughly examined the arguments put forward by the parties, the Ombudsman reached the conclusion that the selection procedure in question did not comply with the standards of good administration, since a) the criteria taken into consideration to evaluate the candidates were not clearly established in the relevant call for expression of interest (the 'Call'); b) the Selection Committee did not evaluate all eligible candidates against the criteria established in the Call; and c) the Recruitment and Training Unit went beyond simply ascertaining the eligibility of candidates, and carried out a (partial) substantive assessment of the candidates' merits. These constituted instances of maladministration. The Ombudsman made the following draft recommendation, in accordance with Article 3(6) of the Statute of the European Ombudsman:

The JRC should: (i) acknowledge all the mistakes that occurred in the selection process in question, and (ii) apologise to the complainant.

In line with the Ombudsman's findings, the JRC should also revise its practices with a view to ensuring: (i) the division of roles between the Recruitment and Training Unit and Selection Committees, and (ii) the evaluation of all eligible candidates against criteria which are clearly defined in the call for expression of interest.

5. In its reply to the Ombudsman's recommendation, the Commission acknowledged that the selection procedure had been tainted by a number of weaknesses and expressed its regret that this had happened. It also apologised for any inconvenience caused to the complainant. It nevertheless maintained the position that these failings had no detrimental effect on the outcome of the selection procedure in question, as the same mode of operation was applied to all candidates.

6. The Commission acknowledged, however, that there was room for improvement in the JRC's selection procedures. It informed the Ombudsman that the JRC had taken a number of initiatives to improve grant holder selection procedures and avoid similar problems in the future. In particular, the JRC decided to take the following measures:

(i) The specific eligibility criteria relating to qualifications will appear in a numbered list in all the templates used in a given selection process. A clear distinction will be made between requirements and assets/advantages, and this distinction will be respected throughout the recruitment process;



(ii) All specific eligibility criteria will be applied consistently throughout the entire recruitment process and they will appear as such both in the comparative table and the individual evaluation sheets;

(iii) Upon request, the JRC will provide candidates with the assessment of his/her performance during the interview.

7. Finally, regarding the role of the Recruitment and Training Unit, the Commission admitted that the wording used in its opinion was unclear and had led the Ombudsman to conclude that the comparative table had been filled in by the Recruitment and Training Unit. The Commission clarified that the role of the Recruitment and Training Unit was limited solely to the preparation of the template of the comparative table and the assessment of whether a candidate fulfilled the general eligibility requirements (i.e. nationality, age, education). The Unit in question did not carry out any assessment regarding the specific eligibility criteria, which were subsequently assessed by the Selection Committee. In this respect, the Commission referred to the minutes of the meeting of the Selection Committee of 15 October 2012 [3]. The Commission acknowledged that its opinion was unclear in this respect, expressed its regret for the mistake, and apologised for it to both the Ombudsman and the complainant.

8. In his observations, the complainant stated that he was not satisfied with the Ombudsman's draft recommendation. Nor was he satisfied with the Commission's reply. In his view, the Ombudsman should have requested the Commission to cancel the selection procedure and to punish those responsible for the errors that had occurred. He reiterated the arguments that he had raised in his previous correspondence with the Ombudsman. Furthermore, he claimed that the Commission should adopt a policy of "open door", recorded interviews in selection procedures.

The Ombudsman's assessment after her draft recommendation

9. In her draft recommendation, the Ombudsman found irregularities as regards (i) the establishment and application of the different selection criteria and (ii) the tasks undertaken by the Recruitment and Training Unit. She therefore requested the JRC to acknowledge these irregularities, apologise for them and take measures to improve matters.

10. Regarding the first point, that is the discrepancies observed in relation to the selection criteria, the Ombudsman is pleased that the Commission acknowledged their existence and apologised for them. It has also taken a number of measures to prevent the same errors from happening in the future. The Ombudsman therefore considers that the Commission has accepted this part of her draft recommendation and has taken adequate steps to implement it.

11. In his observations, the complainant expressed his dissatisfaction with the outcome of his case and reiterated some of the arguments and claims which he had already raised with the



Ombudsman and in respect of which he had received an answer. In particular, in her draft recommendation, the Ombudsman had already explained why she could not ask the JRC to cancel the already terminated selection procedure. She had also dismissed the other claims put forward for the first time in the complainant's observations, given that they were inadmissible [4]. In addition, the Ombudsman takes the view that it is not her role to identify and criticise individual members of staff who committed an administrative mistake or to ensure that disciplinary measures are imposed on them. Her role is to (i) identify any failure by an EU institution to comply with the principles of good administration, (ii) help that institution to eliminate such failure and, if appropriate, to provide redress to the individuals concerned, and (iii) provide guidance and advice in order to ensure that any such instances of maladministration do not occur again in the future. It is for the institution concerned to draw the necessary conclusions from the Ombudsman's findings, also as regards the possible need to take further action in respect of its staff.

12. Regarding the second point, the Ombudsman notes that the Commission admitted that there had been a misunderstanding and that it clarified that the Recruitment and Training Unit had not carried out any substantive assessment of the candidates' merits. Consequently, the Ombudsman considers that this part of her draft recommendation has been adequately addressed by the Commission.

13. The Ombudsman notes that, although it took the Commission quite a long time to clarify the issue of the role of the Recruitment and Training Unit, it finally provided the necessary clarifications, acknowledged its error and apologised for having provided incorrect information both to her and the complainant. The Ombudsman welcomes the Commission's apology and trusts that the Commission will ensure that no doubts arise in the future in relation to the Unit's involvement in selection procedures.

Conclusions

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

The Commission has accepted the draft recommendation and has taken adequate steps to implement it.

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

Emily O'Reilly

Strasbourg, 24/06/2015



[1] The JRC is the European Commission's in-house science service. Its mission is to provide EU policies with independent, evidence-based scientific and technical support throughout the whole policy cycle. The IES is one of the seven scientific institutes of the JRC. Its mission is to provide scientific and technical support to EU policies for the protection of the European and global environment. It is located in Ispra, Italy.

[2] For further information on the background to the complaint, the parties' arguments and the Ombudsman's inquiry, please refer to the full text of the Ombudsman's draft recommendation available at:

<http://www.ombudsman.europa.eu/en/cases/draftrecommendation.faces/en/54351/html.bookmark>
[Link]

[3] *"A selection panel has been set up for the evaluation of the 18 applications received ... A careful screening of the candidatures received in relation to the requirements published has been done by the Selection Committee (table attached) ...".*

[4] See paragraph 35 of the Ombudsman's draft recommendation, referred to in footnote 2.