

## **Decision of the European Ombudsman in complaint 915/2015/PMC concerning the European Personnel Selection Office's (EPSO) handling of an alleged technical fault**

Decision

**Case 915/2015/PMC - Opened on 24/06/2015 - Decision on 28/10/2015 - Institution concerned** European Personnel Selection Office ( No maladministration found ) |

The complainant, who participated in an EPSO recruitment procedure, did not book a date for his computer-based test within the prescribed time-limit and he was thus excluded from the procedure. The complainant argued that EPSO had not sent him an invitation to book the test. EPSO insisted that an invitation had been sent. The Ombudsman's inquiry team inspected EPSO's file and found no indication of any technical problem that could have resulted in a failure to send *the complainant the automatic invitation to sit the computer-based test in time*. *The Ombudsman therefore found no maladministration by EPSO.*

### **The background to the complaint**

1. The complainant is a Spanish national who applied to take part in a recruitment procedure organised by EPSO. [1] The complainant missed the deadline for booking the computer-based test (CTB), allegedly because EPSO had failed to send him an automatic invitation in time. When approaching EPSO regarding the matter, EPSO informed the complainant of the date when the invitation in question had been made available in his EPSO account [2] and it stated that responsibility for checking the EPSO account lies with the candidates participating in recruitment procedures.

2. The complainant then asked EPSO how it could be certain that the message was sent to him on that day. In fact, he had logged into his EPSO profile during the booking period twice in order to work on another application. However, he only saw the invitation message after the deadline for booking the CBT had passed. EPSO replied that the invitations to book the CBT were made available in all candidates' accounts on the same day and that it was no longer possible to make a booking.

### **The inquiry**



3. The Ombudsman opened an inquiry into the complaint and identified the following allegation and claims:

#### *Allegation*

EPSO failed to send an automatic invitation to book the computer based test (CBT) to the complainant's EPSO profile in due time as it did to the other candidates, thus leading to him being unfairly excluded from the recruitment procedure.

#### *Claims*

1. EPSO's automatic messages to candidates should clearly indicate the date and time when they are sent, delivered, and read in an EPSO profile.
2. EPSO should invite the complainant to sit the CBT.
4. The Ombudsman considered it appropriate, as a first step, to inspect EPSO's file on this case, in order to assess the validity of the complainant's allegation.

## **Inspection of the file**

5. The Ombudsman's inquiry team carried out the inspection on 9 September 2015 at EPSO's premises. The preliminary conclusion of the inquiry team following the inspection was that EPSO did not fail to send the complainant an automatic invitation to sit the CBT in due time. [3]
6. The inspection report was submitted to the complainant for comments, who disagreed with the preliminary assessment, arguing that EPSO should have to prove that he had been able to view the message.

## **The Ombudsman's assessment**

7. The Ombudsman finds that the message inviting candidates to book the CBT was undoubtedly created and subsequently activated at the same time in *all* candidates' profiles, including in the complainant's. The documents provided by EPSO during the inspection clearly show the invitation in the complainant's EPSO profile, under the section of the relevant selection procedure. The EPSO profile appears to be a *closed* IT environment (unlike email services, which operate through different servers, a fact which sometimes explains the delay in transmission of electronic messages), in which the sending and reception of messages appear to constitute one and the same technical step. Hence, the *activation of* the message in a candidate's profile implies an *immediate reception* of that same message in the candidate's EPSO profile.



8. Although the complainant argues that he was not able to view the invitation message in his EPSO profile during the period for booking the CBT, the Ombudsman has thus found nothing to support this argument. The Ombudsman considers that, taken together, the information provided by EPSO at the inspection constitutes sufficient proof that it sent the complainant the relevant invitation in due time. The fact that the complainant had logged into his EPSO account twice during the period of time during which he could have booked his CBT does not prove that the relevant message was not viewable, but merely confirms the fact that he did not take notice of the invitation (the complainant's EPSO profile consists of several recruitment procedures which have to be clicked on and opened in order to view related messages).

9. In view of the above, the Ombudsman finds no maladministration by EPSO in relation to the complainant's allegation. The complainant's claim that EPSO should invite him to sit the CBT cannot, therefore, succeed.

10. As regards the complainant's claim concerning the traceability of messages in candidates' profiles, the Ombudsman notes that EPSO has not yet addressed this point raised. However, EPSO has, in the context of the inspection, undertaken to reply to the complainant's point in due time. Given that this matter is not directly linked to the complainant's main grievance concerning his exclusion from the recruitment procedure, the Ombudsman does not consider it justified to pursue this matter further in the context of the present inquiry. She trusts that EPSO will follow up on its assurance to reply to the complainant. However, should the complainant not receive a satisfactory reply within a reasonable period of time, he could consider submitting a new complaint to the Ombudsman in this regard.

## Conclusion

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

**The Ombudsman finds no maladministration by EPSO.**

The complainant and EPSO will be informed of this decision.

Emily O'Reilly

Strasbourg, 28/10/2015

## ANNEX: Extract of inspection report



## The inspected file

EPSO's representatives provided the following documents for inspection:

**(a) print-outs of EPSO's back office view** of the complainant's EPSO profile, as well as of the complainant's own EPSO profile view;

**(b) a list** of EPSO candidates participating in Open Competition EPSO/AD/301/15 (including the complainant); and

**(c) print-outs of the complainant's EPSO profile sub-page** showing the messages in relation to Open Competition EPSO/AD/301/15.

## General points and comments

### **As document (a) - print-out of EPSO's back office view**

This document provides an overview of the complainant's identification and contact data, as well as of the EPSO recruitment procedures he applied for. It also lists the complainant's visits to his EPSO profile.

From examining the document, it is clear that - during the time candidates were invited to book their CBT (namely between 6 and 18 May 2015) - the complainant logged onto his EPSO profile both on 8 and 12 May 2015.

### **As to document (b) - List of EPSO candidates participating in Open Competition EPSO/AD/301/15 (selection)**

The document shows that the complainant read the invitation on 22 May 2015, at 10:32, that is, four days after the deadline to book the test had passed.

The list also shows the date of creation of the invitation message (24 April 2015). In this respect, EPSO's representatives explained that the invitation message is created in the system before being activated and viewable by candidates. The list would appear to demonstrate that the message was properly created in the candidates' EPSO profiles on 24 April 2015, and that the other EPSO candidates started reading the message on 5 May 2015. Only the complainant did not read the message on time. The list does not indicate from what exact moment the message was viewable.

### **As to document (c) - Messages in relation to Open Competition**



## **EPSO/AD/301/15**

The said message box in the complainant's EPSO profile clearly shows EPSO's invitation to book the CBT.

EPSO's representatives stated that EPSO will provide a reply and apologies in a letter to be sent to the complainant. EPSO's letter will be forwarded to the Ombudsman for information.

### **Preliminary conclusion**

From the documents inspected, and on the basis of the comments made by EPSO's representatives, it appears that the complainant logged onto his EPSO account during the period when he could have booked a CBT (namely on 8 and 12 May 2015).

There is nothing to suggest that the fact that the complainant did not see the invitation to the CBT in Open Competition EPSO/AD/301/15 was due to a technical fault. In fact, there is no evidence to suggest that EPSO had any technical problem as regards the sending of invitations to candidates to sit the CBT in Open Competition EPSO/AD/301/15. The evidence provided to the Ombudsman's representatives suggests that EPSO prepared an invitation message to all candidates on 24 April 2015, which was subsequently readable in the candidates' EPSO profile as of 5 May 2015.

In view of the above, it appears that EPSO did not fail to send the complainant an automatic invitation to sit the CBT in due time.

[1] Open Competition EPSO/AD/301/15.

[2] The EPSO account is the personal space of candidates who apply for an Open Competition. It contains data about their personal profile, such as name and qualifications, as well as messages sent by EPSO.

[3] For more information, see the enclosed extract of the inspection report.