

Decision in case 1133/2014/JAS on the European Parliament's handling of a request for information concerning a selection procedure

Decision

Case 1133/2014/JAS - Opened on 31/07/2014 - Decision on 14/01/2016 - Institution concerned European Parliament (No maladministration found) |

The case concerned the European Parliament's alleged failure to provide the complainant with the assessment grid and with the specific reasons for the points awarded to him in a selection procedure.

Given that the Civil Service Tribunal has ruled, in a recent judgment, that selection boards do not need to give candidates the corrected version of their tests, the reasons why replies were erroneous, or the evaluation grids used for the written and oral tests, the Ombudsman opened an inquiry into the complaint to allow Parliament to comment on the relevance of the Tribunal's findings on its recruitment proceedings.

Parliament argued that its reasons for refusing to provide the complainant with the requested information were supported by the Civil Service Tribunal's judgment. It nevertheless provided the complainant with the reasons why he was awarded a certain number of points for certain answers.

The Ombudsman found that Parliament acted reasonably and therefore closed the inquiry with a finding of no maladministration.

The background to the complaint

1. The complainant participated in a selection procedure carried out by the European Parliament.
2. The selection was based on the assessment of the candidates' answers (the so-called "talent screener") to nine questions relating to the candidates experience and skills, corresponding to the nine criteria to be assessed according to the Call for Expressions of Interest (the "Call"). According to the Call, the selection panel would apply a weighting of between 1 and 3 to each question and would award 0 to 4 points for each of the answers. The final mark was obtained by



multiplying the points awarded for each answer by the weighting for the relevant question.

3. In June 2014, Parliament informed the complainant that the selection panel had not included his name in the database of successful candidates, as the total of points he had obtained was lower than that achieved by the last candidate listed. The letter also contained a link to a table detailing the nine questions, their corresponding weightings and the points the complainant had been awarded for each answer.

4. The complainant then engaged in an exchange of correspondence with Parliament aimed at obtaining an explanation for the points scored under criterion 1 and 8. Parliament replied that the selection panel had awarded points for each answer based on an assessment grid established at the beginning of its work, in the exercise of its broad discretion. It did not transmit the grid to the complainant, invoking the principle of secrecy of selection board proceedings laid down in Article 6 of Annex III to the Staff Regulations.

5. The complainant then turned to the Ombudsman.

The inquiry

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

Allegation:

By refusing to inform the complainant of the assessment grid and the specific reasons to award him the number of points he obtained, Parliament failed to conduct the relevant selection procedure in a transparent manner.

Claim:

Parliament should inform the complainant of the assessment grid and the specific reasons to award him the number of points he obtained in order to conduct the relevant selection procedure in a transparent manner.

7. In the course of the inquiry, the Ombudsman asked Parliament for an opinion on the complaint, as well as to address the possible relevance of the judgment of the Civil Service Tribunal in *De Mendoza Asensi v Commission* [1] for Parliament's handling of recruitment proceedings. The complainant did not submit any comments in response to Parliament's opinion. In conducting the inquiry, the Ombudsman has taken into account the arguments and opinions put forward by the parties.

Allegation that Parliament failed to conduct the relevant selection procedure in a transparent manner



Arguments presented to the Ombudsman

8. The complainant questioned, in particular, the selection panel's decision to award him 1 out of 4 points for his answer to question 1 (possession of a postgraduate diploma in one or more of the relevant areas) and to award only 2 out of 4 points for his answer to question 8 (experience of drafting documents) while awarding him 4 out of 4 for his answer to question 9 (experience of drafting documents in English, French or German). He considered the panel's decision to be unjust and arbitrary. Therefore, he requested access to the evaluation criteria of his application and the exact reasons for his score.

9. Parliament stated that the selection panel, before considering the candidates' answers, had adopted a grid which contains parameters to evaluate the qualitative and quantitative data provided in relation to each criterion. Such parameters adopted by a selection board prior to the tests or, as in this case, prior to the talent screener, formed an integral part of the assessments of candidates' comparative merits made by the selection board in a competition. Those parameters were intended to ensure, in the candidates' interest, a certain homogeneity in the selection board's assessments, in particular, where the number of candidates is high. They were covered by the secrecy of deliberations of the selection board, in the same way as other assessments made by the selection board [2]. The lack of transparency put forward by the complainant was therefore justified by the need to ensure the secrecy of the panel's deliberations, in conformity with Article 6 of Annex III to the Staff Regulations (which states that "the proceedings of the Selection Board shall be secret").

10. Having regard to the secrecy which must, by law, surround the proceedings of a selection board, Parliament noted that, according to established case-law as to the obligations to state reasons in accordance with Article 25 of the Staff Regulations, communication of the marks obtained in the various tests constituted an adequate statement of the reasons on which the board's decisions were based [3], all the more so given that the Call attracted many candidates [4]. By providing the complainant with a breakdown of the marks scored for each question of the talent screener, Parliament acted in compliance with this jurisprudence.

11. According to Parliament, the above assessment was supported by the Civil Service Tribunal's recent judgment in *De Mendoza Asensi v Commission*, which states that the assessing institution "was not required, in order to comply with its obligation to state reasons, to transmit to the applicant the marked version of his papers, **the reasons why his answers were incorrect**, and the **assessment sheets** used for the written and oral tests, since those documents formed an integral part of the assessments of a comparative nature which the competition selection board makes and are covered by the secrecy surrounding the board's proceedings" [5] (emphasis added).

12. Parliament, in its opinion, nevertheless provided the complainant with additional information on the panel's assessment due to the fact that, while the complainant had not lodged a complaint in accordance with Article 90(2) of the Staff Regulations, other non-selected



candidates had done so. For the sake of equal treatment, Parliament considered it appropriate to analyse the panel's assessment of the complainant's talent screener.

13. Concerning question 1, Parliament explained that the complainant had stated that he had a PhD in the relevant field. However, the possession of a PhD was also evaluated under question 3 (possession of a relevant doctorate) [6] . As the same merit could not be taken account of twice, the panel decided, for question 1, to award all candidates who did not possess another post-graduate degree, apart from a PhD, only one point.

14. As regards question 8, Parliament explained that the answer was assessed differently than the answer for question 9: Whereas question 8 focused on the content of documents drafted, question 9 focused on the ability to write in the three languages mentioned. Parliament also provided further explanations as to why the complainant was not awarded the maximum number of points for his answer.

15. Parliament concluded that the complainant's allegation, that Parliament had failed to conduct the relevant selection procedure in a transparent manner, was unsubstantiated. Furthermore, it considered that the selection panel's assessment of the complainant's talent screener was not vitiated by any manifest error.

The Ombudsman's assessment

16. The Ombudsman notes that the Parliament's refusal to provide the complainant with the assessment grid, and the specific reasons to award him the number of points he obtained, was in accordance with the relevant case-law.

17. Furthermore, the Ombudsman notes that Parliament, in its opinion, actually provided the complainant with the specific reasons for the points awarded to him under question 1 and 8, thereby meeting part of his claim in line with the principles of good administration. The Ombudsman thanks Parliament for making this effort despite the fact that it was not required to do so by the case-law.

18. The Ombudsman therefore finds no maladministration by Parliament.

Conclusion

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

The Ombudsman finds no maladministration by the European Parliament.

The complainant and Parliament will be informed of this decision.



Final English version of the decision on complaint **1133/2014/JAS**

Strasbourg 14/01/2016

[1] Judgment in *De Mendoza Asensi v Commission* , F-127/11, EU:F:2014:14.

[2] Judgment in *Mata Blanco v Commission* , F-65/10, EU:F:2012:178, paragraph 68.

[3] Judgment in *Mileva v Commission* , F-101/11, EU:F:2012:197, paragraph 29.

[4] See Judgment in *Coto Moreno v Commission* , F-127/07, EU:F:2008:113, paragraph 56.

[5] Judgment in *De Mendoza Asensi v Commission* EU:F:2014:14, paragraph 99.

[6] The complainant was awarded 3 points for criterion 3.