

Decision in case 1585/2014/JAS on the failure of the Office of the European Union Special Representative in Kosovo to keep internship candidates informed of steps in a recruitment procedure

Decision

Case 1585/2014/JAS - Opened on 09/10/2014 - Decision on 06/06/2016 - Institution concerned European External Action Service (Settled by the institution) |

The case concerned the alleged failure of the Office of the European Union Special Representative (EUSR office) in Kosovo to keep internship applicants informed of steps in a recruitment procedure. The Ombudsman inquired into the issue, setting out her view that "it is both courteous and service-minded to acknowledge receipt of applications and to inform candidates of the significant steps (such as their exclusion from a recruitment procedure) affecting their progress in a recruitment procedure. " *The EUSR office explained that it had very limited resources and therefore could inform only shortlisted persons of the outcome of the procedure. However, it stated that it was examining how to improve its communication with persons wishing to be interns, such as by informing all such persons of relevant steps in the procedure by putting relevant information on its website. The Ombudsman invited the EUSR office to report on the implementation of this solution.*

The background to the complaint

1. In June 2014, the Office of the European Union Special Representative (EUSR office) in Kosovo advertised vacancies for an intern and for a policy officer. The complainant applied for the intern position. On 25 July 2014, she requested information on her application. On 29 July 2014, the EUSR office informed her that her application had been received and that she would be informed about the outcome of the selection procedure, which was still ongoing, in due time. Not having received any further reply, the complainant turned to the Ombudsman in September 2014.

2. Following an intervention by the Ombudsman, the EUSR office sent an e-mail to the complainant. The EUSR office explained that, in the advertisements for the post for which the complainant had applied, it had stated clearly that it would inform shortlisted candidates "in due course". It added that its "practice and obligation" were to "send regret e-mails" only to shortlisted candidates, and that this would be done at the same time as it informed the selected



candidate. Following this practice, applicants who had not been shortlisted would not receive any communication from the EUSR office. However, given that the complainant had been told, in the reply of 29 July, that she would be informed of the outcome of the procedure, the EUSR office stated that it should have written to her. It apologised and stated that it had since written to all unsuccessful candidates.

3. The complainant stated that she was grateful for the apology, but that she was very disappointed with the lack of transparency in the process.

The inquiry

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

Allegation

The EUSR office in Kosovo failed to keep candidates informed of the significant steps in the recruitment procedure.

Claim

The EUSR office should keep candidates informed of the significant steps in the recruitment procedure.

5. The Ombudsman requested an opinion from the European External Action Service (EEAS) as the institution responsible for the EUSR office. The Ombudsman invited the EEAS take into account, when drafting its opinion, her view that " *it is both courteous and service-minded to acknowledge receipt of applications and to inform candidates of the significant steps (such as their exclusion from a recruitment procedure) affecting their progress in a recruitment procedure* " [1] .

6. The Ombudsman received the opinion of the EEAS on the complaint and, subsequently, the comments of the complainant in response to the opinion of the EEAS.

Allegation of failure to keep candidates informed of the significant steps in the recruitment procedure

Arguments presented to the Ombudsman

7. In its opinion, the EEAS explained that the practice of the EUSR office in Kosovo was to communicate only with those candidates shortlisted. It argued that this was a common practice amongst many EU institutions [2] . While it acknowledged room for improvement in relation to



the transparency of recruitment procedures, it said that the EUSR office had limited resources available for organisation of such procedures. It pointed out that its vacancy notices stated that only short-listed candidates would be contacted.

8. The EUSR office thus treated the complainant in the same way as any other candidate, save for the fact that, in reply to a direct inquiry from her, an administrative staff member confirmed that she would be informed of the outcome of the recruitment procedure. It added that it did inform the non-shortlisted applicants, too, but as a matter of lower priority. In the present case, the complainant was informed, as were all other applicants who had not been selected, by e-mail on 16 October 2014.

9. Finally, the EUSR office stated that it remained "open to suggestions and recommendations for improving the quality of its services within the scope of its mandated activities and technical capacities." In this regard, it explained that it was in the process of examining how better to share relevant information with candidates. This included considering stating, on its recruitment website, when relevant timelines have expired in a particular recruitment process, and when successful candidates have been selected.

10. In conclusion, the EEAS maintained that the recruitment process was conducted in accordance with common practices and standards.

11. In her observations, the complainant noted that the fact that information practices at the EUSR office were in line with those of other EU institutions did not necessarily mean that they were in line with the principles of good administration. It was in the public interest and also the interest of institutions to make EU recruitment procedures as transparent as possible. She argued that it was essential for applicants to be informed of the outcome of selection procedures in good time.

12. The complainant welcomed the apology of the EUSR office, but insisted that the EUSR office should propose more concrete measures to prevent a situation such as hers from arising in the future, and demonstrate commitment to actually implementing such measures.

The Ombudsman's assessment

13. This case demonstrates how a failure to keep candidates in a selection procedure informed can affect them negatively. A candidate will be able to challenge the decision rejecting an application only if he or she is informed of the rejection and the reasons for the rejection. It is thus good administration for an institution to *"inform candidates of the significant steps (such as their exclusion from a recruitment procedure) affecting their progress in a recruitment procedure."*

14. The EUSR office initially argued that it was unable to inform all candidates because it had insufficient staff resources to do so. The complainant is, in principle, correct to point out that, in an ideal world, staff shortages should not stand in the way of compliance with principles of good



administration.

15. The Ombudsman acknowledges that the EUSR office is a small body and that it is forced to carefully consider how best to use its limited resources. A notice offering an internship can easily yield hundreds of applications and steps must be taken to ensure that the work involved in selecting interns does not overwhelm an administration. The Ombudsman considers that, given this context, the EUSR office has proposed a good way to seek to reconcile those two opposing considerations, namely, to publish, on its website, the relevant dates for the significant steps in a recruitment procedure. It is much less resource-intensive to publish the fact that a significant step has been taken in a selection procedure, and that interns have been selected, than it is to write individually to all candidates to this effect. However, the information is indirectly communicated to all candidates, which enables those who were rejected to request the administration to explain why they were not selected.

16. The Ombudsman encourages the EUSR office to pursue this solution. She points out that, in order to ensure that unsuccessful candidates can challenge the decision not to select them, the EUSR office should also explain, in the same place, the manner in which they can make use of the legal remedies available to them. She invites it to report to her on its implementation of the proposal.

17. The Ombudsman is confident that the EUSR office will implement this proposal and therefore considers that there are no grounds for further inquiries on her part.

Conclusions

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

The EUSR office has proposed a useful solution to the complaint. There are therefore no grounds for further inquiries.

The Ombudsman invites the EUSR office to inform her about the implementation of the solution and to take into account her comments on it.

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

Emily O'Reilly

Strasbourg, 09/06/2016

[1] This statement was made in the decision in case 923/2009(BB)FOR and repeated in OI/3/2013/CK.



[2] By way of example, the EEAS referred to Vacancy notice EIGE/2014/TA/05/AD8 at the European Institute for Gender Equality, Senior Officer – Gender Based Violence, 24 November 2014, available at <http://eige.europa.eu/content/career-opportunity/eige-2014-ta-05-ad8> [Link], which stated that "Due to large volume of applications, only candidates selected for the interviews will be contacted".