

Decision in case 124/2017/PMC on the European External Action Service's (EEAS) handling of an application for a post in an EU Delegation

Decision

Case 124/2017/PMC - Opened on 14/02/2017 - Decision on 14/02/2017 - Institution concerned European External Action Service (No maladministration found) |

The complainant applied for a post in an EU delegation but was not invited for an interview due to lack of appropriate professional experience. The complainant was concerned that his application had not been handled fairly and he therefore turned to the Ombudsman.

The Ombudsman inquired into the issue and found no manifest error of assessment of the complainant's application. The Ombudsman therefore closed the case with a finding of no maladministration.

The background to the complaint

1. The complainant had worked for the European Commission for approximately three years from mid-2010 until mid-2013. In April 2016, he applied for a post of administrative assistant in an EU Delegation. In June 2016, he was informed that he had not been chosen for the post. He then requested further information on the selection panel's decision not to invite him for an interview.

2. In June 2016, the European External Action Service (EEAS) informed the complainant that another candidate had been found to be more suitable for the post. The selection panel had found the complainant's qualifications and experience interesting, but not sufficiently relevant. In particular, he lacked experience of resources management, of leading teams and of administrative support and resources. In July 2016, the complainant submitted an administrative complaint [1] to the EEAS contesting the outcome of the recruitment procedure. The EEAS replied to the complaint in November 2016. Not being satisfied with the EEAS' reply, the complainant turned to the Ombudsman.

The inquiry

3. The Ombudsman opened an inquiry into the complainant's concern that the EEAS had not handled his application fairly.



4. In the course of the inquiry, the Ombudsman's inquiry team duly considered the information provided in the complaint. In particular, the inquiry team carried out a thorough analysis of the correspondence that had taken place between the EEAS and the complainant before the complainant turned to the Ombudsman.

Allegation of unfair handling of the complainant's application for a post of administrative assistant in an EU Delegation

Arguments made by the EEAS and the complainant

5. In its decision on the complainant's administrative complaint, the EEAS noted that according to settled case-law, the selection panel has a wide discretion in assessing a candidate's eligibility and qualifications. The Court and, hence, the institution assessing an administrative complaint (in this case the EEAS), must therefore confine themselves to examining whether, in the exercise of its discretion, the selection panel committed a manifest error or a flagrant breach of the rules governing its work. [2] The EEAS further pointed out that, because a selection panel is independent, the institution (in this case the EEAS) can only modify a decision taken by a selection panel in cases where the rules governing the proceedings of the selection panel have clearly been infringed [3] .

6. As to the complainant's argument that his professional experience should have been sufficient for him to be invited for an interview, the EEAS stated that, according to settled case-law, a candidate's qualifications and professional experience does not confer on him or her a right to be successful in a selection procedure [4] . Even where a candidate can demonstrate considerable experience and qualifications in the field concerned, that does not exclude the possibility that, in a comparative assessment of merits, other candidates might have done better [5] .

7. The EEAS added that, in the relevant recruitment procedure, the Delegation received seventeen applications. Nine of the seventeen candidates were eligible, among them the complainant. The nine eligible candidates were thus considered for the post and their applications were examined as part of the pre-selection process. Following the examination of all nine applications, the selection panel considered that only half of the selection criteria were fulfilled in the complainant's case. Five candidates fulfilled all of the criteria and one candidate fulfilled three fourths of the criteria. Therefore, only these six candidates were shortlisted and invited for interviews. Against this background, the selection panel did not commit any manifest error of assessment in its work and the EEAS therefore rejected the complainant's administrative complaint.

8. In his complaint to the Ombudsman, the complainant argues that the EEAS' decision on his administrative complaint " *contains a lot of sentences* " but that he " *did not go through all of them* ". However, "[t] he ones [he has] checked, in [his] opinion are not pertinent to [his] case ". He is of the view that he has all the required professional experience. He has already explained to the EEAS " *that in [his] CV [he has] only written the key words of [his] previous jobs* ". The



only requirement which he did not fulfil was the necessary experience in an EU Delegation. However, in his view, experience gained in a Unit of the Commission should be considered equivalent to experience gained in an EU Delegation.

The Ombudsman's assessment

9. As rightly pointed out by the EEAS, a selection panel enjoys a wide margin of discretion when assessing a candidate's qualifications. A decision by a selection panel is only subject to review if it is affected by a manifest error of assessment. [6]

10. The EEAS has explained to the complainant why the selection panel did not consider his professional experience to be sufficiently relevant in comparison with other applicants. While the complainant is of the view that he has all the required professional experience, according to settled case law, **a candidate's personal conviction does not constitute evidence of a manifest error on the part of the selection panel**, nor of a procedural irregularity. [7]

11. The complainant's statement that his CV only contained the "*key words of [his] previous jobs*" leaves open the possibility that he may possess the required experience for the post in question. However, it is for the applicant to present his or her *complete* profile in order to allow the selection panel to assess the merits of the application. The institution cannot be held responsible for an applicant having provided incomplete information.

12. On the basis of the above, there is nothing to indicate that the assessment of the complainant's application was vitiated by a manifest error.

Conclusion

On the basis of the inquiry into this complaint, the Ombudsman closes it with the following conclusion [8] :

The EEAS did not commit maladministration.

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

Strasbourg, 14/02/2017,

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[1] Under Article 90(2) of the Staff Regulations

[2] Case F-16/07, *Dragoman v Commission*, para. 30; Case T-371/03 *Le Voci v Commission*,



para. 64 and 102; and Case C-17/07, *Neirinck v Commission* , para. 82.

[3] Case F-16/07, *Dragoman v Commission* , para. 30.

[4] Case T-494/04, *Neirinck v Commission* , para. 142.

[5] *Idem*.

[6] Of relevance is, in this respect, also Case T-25/03 *de Stefano v Commission* , para. 34.

[7] T-17/90, T-28/91 and T-17/92, *Camara Alloisio v Commission* , para. 90; T-46/93, *Michaël-Chiou v Commission* , para. 50; T-53/00, *Angioli v Commission* , para. 94.

[8] Information on the review procedure can be found on the Ombudsman's [website \[Link\]](http://www.ombudsman.europa.eu/en/resources/otherdocument.faces/en/70669/html.bookmark):
<http://www.ombudsman.europa.eu/en/resources/otherdocument.faces/en/70669/html.bookmark>
[Link]