

Decision of the European Ombudsman on complaint 1051/25.11.96/AF/B/VK against the European Parliament

Decision

Case 1051/96/VK - Opened on 23/01/1997 - Decision on 17/09/1998

Strasbourg, 17 September 1998 Dear Mrs F., On 15 November 1996 and 14 January 1997, you made a complaint to the European Ombudsman against the European Parliament. You alleged that the Parliament had wrongly refused to admit you to the written tests under competition PE/80/A organised by the Parliament. The refusal was made on the grounds that you had not handed in documentation for having a very good knowledge of a second Community language as required by the notice of the competition. On 23 January 1997, I forwarded the complaint to the President of the European Parliament. The Parliament sent its opinion on 2 July 1997. I forwarded the opinion to you with an invitation to make observations, which you sent on 26 August 1997. I am writing now to let you know the results of the inquiries that have been made. I apologize for the length of time that it has taken to deal with your complaint.

THE COMPLAINT

According to your complaint, the relevant facts were as follows: On 3 January 1996, you applied under the competition PE/80/A published in OJ C 292 A of 7 November 1995. The publication in the Official Journal falls in three parts, the first one containing general provisions applicable for open competitions, the second one being Guidelines for participants in open competitions organised by the Parliament and the third one being finally the notice on the specific competition in question to which the application form is attached. As concerns documentation, the Guidelines provide under the heading "Documentation" that "The applicants must provide documentation for any request for exemption from the age limits as well as for the information given under point 9 'education' and under point 12 'professional experience' together with their application form". The Guidelines do not request that documentation should be provided for the knowledge of a second Community language. The notice of the competition provides in Title III. A. 2. that "the Selection Board examines the documentation and establishes the list of applicants which comply with the specific conditions under Title II-B. The Selection Board bases its decision *entirely* on the information given in the application form, which is backed by accompanying documentation". Point II-B in the notice falls into two parts: the first one requesting the applicants to possess a university diploma or equivalent professional experience; the second one requesting the applicants to possess a very good knowledge of an additional Community language other than their mother tongue. Finally it shall be noticed that the application form to be filled in by the applicant contains several headings. Heading 7 is



entitled "knowledge of languages" and is divided into two sub-categories: a) main tongue and b) other languages. There is no indication that the applicant should provide documentation for the information given under heading 7. Documentation is only requested on the application form for headings 9 "education" and 12 "professional experience". On 29 August 1996, you were informed that you could not be admitted because "from the documents you handed in, it did not appear that you had the required very good knowledge of an additional Community language as laid down in Title II, point B.2 of the announcement for the selection procedure PE/80/A". In your appeal against this decision of 4 September 1996, you put forward that the text of the Official Journal did not explicitly request documents to prove the knowledge of a second Community language. On 3 October 1996, your appeal was rejected on the grounds that the Selection Board could base its findings only on the application and its annexed documents, and that the documents handed in by you did not prove the requested very good knowledge of a second Community language. Against this background, you lodged the complaint with the European Ombudsman. In support of your claim that the Selection Board's decision is wrong, you have in substance put forward three arguments:

- The information given to applicants concerning the documentation was confusing and misleading. The Guidelines which did not request documentation for the knowledge of languages should prevail over the notice of the competition.
- The Selection Board should have concluded that you fulfill the language requirements as it appeared from your application form that you had been working as an assistant to a Member of the European Parliament. It should therefore be obvious that you fulfilled the language requirements.
- The Selection Board has infringed the principle of equal treatment of applicants, as another applicant in a similar situation to yours was admitted, on appeal, for the competition.

THE INQUIRY

The Parliament's opinion In its observations, the Parliament confirmed its previous decision not to admit you to the written tests due to failure to produce documentation on the knowledge of languages. The Parliament pointed out that its decision was based on the wording of the notice of competition which it considered to take precedence over the Guidelines. **Your observations** In your observations, you maintained your complaint.

THE DECISION

1 Failure to provide accurate information on the application It is good administrative behaviour to provide the most accurate information possible about the conditions of eligibility for the post to enable the applicant to judge whether he should apply for it and, what supporting documents are important for the proceedings and therefore must be enclosed with the application form (1). According to the Guidelines for the Participants, documentation was only necessary to give proof for points 9 and 12 of the application form, "education" and "professional experience"; whereas the Notice of Competition stipulated that applicants had to send in copies of diplomas, work references or "*all other documents*" proving the information given in the application form. The information given in the Guidelines and the Notice appears contradictory as regards the



requirement of documents. Without prejudice to the legal value of the texts, it appears clear that both texts serve the function of properly informing the applicant in a particular competition and therefore, they should not differ from each other. The Parliament therefore failed to provide the complainant with clear and accurate information about the fact that it considered that knowledge of languages should be supported by evidence. It should have ensured that applicants were given instruction about the requirements for the competition.

2 Work experience as proof for language qualifications Even when one considers the multi-lingual environment of the place of work and the position of assistant in the European Parliament, the fact that one works there, is in itself not a proof of sufficient knowledge of another Community language.

3 Equal treatment of candidates by the Selection Board In support of your allegation you have put forward that another candidate, who had been rejected for the same reasons, was admitted to the procedure after he had appealed by arguing that the strict interpretation of the wording of the Notice of Competition did not automatically lead to the assumption that documents proving the knowledge of a second Community language were required. Given in particular the lack of any indication as to the identity of this person, the Ombudsman cannot look into the matter further.

4 Conclusion On the basis of European Ombudsman's inquiry into this complaint, it appears necessary to make the following critical remark: It is good administrative behaviour to provide the most accurate information possible about the conditions of eligibility for the post to enable the applicant to judge whether he should apply for it and, what supporting documents are important for the proceedings and therefore must be enclosed with the application form. According to the Guidelines for the Participants, documentation was only necessary to give proof for points 9 and 12 of the application form, "education" and "professional experience", whereas the Notice of Competition stipulated that applicants had to send in copies of diplomas, work references or "*all other documents*" proving the information given in the application form. The information given in the Guidelines and the Notice appears contradictory as regards the requirement of documents. Without prejudice to the legal value of the texts, it appears clear that both texts serve the function of properly informing the applicant in a particular competition and therefore, they should not differ from each other. The Parliament therefore failed to provide the complainant with clear and accurate information about the fact that it considered that knowledge of languages should be supported by evidence. It should have ensured that applicants were given instruction about the requirements for the competition. Given that this aspect of the case concern procedures relating to specific events in the past, it is not appropriate to pursue a friendly settlement of the matter. The Ombudsman has therefore decided to close the case.

Yours sincerely Jacob Söderman Copy: Mr. José-María Gil-Robles Gil-Delgado, President of the European Parliament Mr. Julian Priestley, Secretary General of the European Parliament

(1) Case T-158/89, Judgment of 28 November 1991, van Hecken v. Economic and Social Committee, [1991] ECR II-1341.