

Decision in case 938/2016/JN on EPSO's alleged failure to give candidates sufficient advance notice of the examination period for the computer-based tests in competition AD/322/16

Decision

Case 938/2016/JN - Opened on 29/07/2016 - Decision on 01/06/2017 - Institution concerned European Personnel Selection Office (No maladministration found) |

The case concerned the European Personnel Selection Office's (EPSO) alleged failure to give candidates sufficient advance notice of the examination period for the computer-based tests in a competition. The Ombudsman inquired into the issue and found that there was no maladministration on the part of EPSO. In the particular case, the candidate was informed of the examination period 3 weeks in advance of its commencement. EPSO - following a previous Ombudsman decision - always contacts candidates at least 2 weeks before the beginning of the examination period.

In the course of this inquiry, EPSO informed the Ombudsman that it has a new practice whereby it publishes an advance **indicative timeline** for the competitions it organises. This is a development which the Ombudsman welcomes.

The background to the complaint

1. The complainant participated in EPSO competition AD/322/16. On 17 June 2016, EPSO invited him to register for the computer-based tests which were to take place between 7 and 22 July 2016. The complainant could not attend the tests because he had booked a trip abroad during the same period. Considering that EPSO should have informed candidates of the timing of the examination period much more in advance, the complainant turned to the Ombudsman.

The inquiry

2. The Ombudsman opened an inquiry into the complaint and identified the following issues:

The complainant was not able to take the computer-based tests in competition AD/322/16 because, he claims, EPSO did not inform candidates sufficiently far in advance of the timing of



the examination period for the tests. EPSO should inform candidates of the examination period in good time.

EPSO should make information on the examination period readily available on its website, in the vacancy notice or in a candidate's EPSO account.

EPSO should reorganise the test after summer e.g. in September. Since the complainant was prevented from taking the test, EPSO should allow him to take it.

3. In the course of the inquiry, the Ombudsman received EPSO's reply to the complaint and a further reply following the Ombudsman's further inquiry letter. In that letter, the Ombudsman suggested different options [1] allowing candidates to better organise their lives so as to be available for the tests, and asked EPSO to consider applying them. The Ombudsman's decision takes into account the arguments and views put forward by the parties.

Informing candidates sufficiently in advance of the timing of the examination period

Arguments presented to the Ombudsman

4. The complainant said that EPSO did not publish the timeline of the different stages of the competition and test times on its website sufficiently in advance. EPSO did not inform the complainant of the test times until 17 June 2016 while the examination period was starting less than 3 weeks later on 7 July 2016. The tests took place during the holiday period and over a period of just 2 weeks. Because of the late notice, the complainant could not attend the tests since he had already planned a trip abroad.

5. EPSO replied that the notice of competition said that "[i]f the number of candidates per grade exceeds a certain threshold ..., all candidates who validated their application form by the deadline will be invited to sit a series of computer-based MCQ tests ...". EPSO had to wait until the end of the application period, that is 14 June 2016, to decide whether these tests would be organised. On 17 June 2016, EPSO decided to hold the tests and invited candidates to register. The tests were to take place between 7 and 22 July 2016. The complainant did not register.

6. EPSO added that it understands the complainant's frustration and that it regrets that the complainant could not register for the tests. However, relying on the Ombudsman's decision in case 1906/2011/TN [2], EPSO considered that it was sufficient to inform candidates 2 weeks before the examination. EPSO stated that it does its utmost to take and communicate decisions concerning the dates of tests as swiftly as possible in order to limit any negative impact on candidates and that it fully respects the Ombudsman's recommendation to inform candidates at least 2 weeks in advance.

7. For this competition, EPSO informed candidates on 17 June 2016. Thus, there was more



than 1 month between the day on which the information was provided and the last day on which the candidates could take the test (22 July 2016). The tests were organised in test centres in all 28 Member States and the complainant could take the test in any of them.

8. In its further reply, EPSO informed the Ombudsman that it had introduced a new publication policy which, as it happens, implements some suggestions also made by the Ombudsman. Since 1 January 2017, EPSO publishes an indicative planning for all stages of each specific competition on its website. EPSO updates the planning at the latest 2 weeks before the tests but EPSO does its best to update the information earlier. The invitation to the tests is published in the candidate's EPSO account 2 weeks before the tests at the latest. EPSO also stated that it strives to inform candidates well in advance of 2 weeks before the tests and referred to a case where 3 months' notice had been given.

9. However, EPSO pointed out that publishing a full indicative planning *in the notice of competition* is not possible because that information is not available at that point in time. The competition planning is decided in close collaboration with the members of the Selection Board who are not all necessarily designated before the finalisation/translation of the notice of competition. There are also other constraints which affect the planning of competitions such as the number of applicants. This cannot be known before the end of the application period.

The Ombudsman's assessment

10. In case 1906/2011/TN the Ombudsman took the view that if information about the testing times is provided to candidates 2 weeks beforehand, "*two weeks constitutes a reasonable period of time*" which should allow them to make the necessary arrangements. The Ombudsman therefore does not consider that EPSO's conduct amounted to maladministration because EPSO followed the Ombudsman's view and informed the complainant more than 2 weeks in advance of the test dates. In fact there were nearly 3 weeks before the start of the testing period and more than 5 weeks before it finished.

11. The Ombudsman recognises that, in the particular situation of **some** candidates, the 2-week period may not be sufficient. Accordingly, she is pleased that EPSO has now further improved its practice in this area and, in particular, now publishes an advance indicative timeline for different competition stages.

Conclusion

On the basis of the inquiry into this complaint, the Ombudsman closes it with the following conclusion [3] :

There was no maladministration on the part of EPSO.

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



Emily O'Reilly

European Ombudsman

Strasbourg, 01/06/2017

[1] The Ombudsman mentioned, by way of example, publishing an advance indicative timeline (“planning indicatif”) for different competition stages and informing candidates of a minimum time space between the end of the application period and the tests (e.g. two months), in particular if tests will take place during customary vacations periods.

[2] <https://www.ombudsman.europa.eu/cases/decision.faces/en/49316/html.bookmark>

[3] 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>
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