

## **Decision in case 2118/2017/AMF on the recruitment procedure for IT specialists organised by the European Agency for the operational Management of Large-Scale IT systems in the area of freedom, security and justice**

Decision

**Case 2118/2017/AMF - Opened on 19/12/2017 - Decision on 19/12/2017 - Institution concerned** European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice ( No maladministration found ) |

The case concerned the non-inclusion of the complainant on a list of suitable candidates from which the European Agency for the operational Management of Large-Scale IT systems in the area of freedom, security and justice (eu-LISA) will recruit IT specialists. The complainant considered that eu-LISA had not evaluated his performance correctly.

The Ombudsman inquired into the issue and found no maladministration by eu-LISA.

### **Background to the complaint**

1. The complainant was invited by the European Agency for the operational Management of Large-Scale IT systems in the area of freedom, security and justice (eu-LISA) to an interview and a written test in the context of a selection procedure to establish a reserve list of suitable candidates for potential recruitment as IT specialists [1] . The selection procedure took place in April 2017.

2. Eu-LISA informed the complainant that his score in the interview and the written test did not reach the threshold established by the Selection Committee [2] for him to be included on the reserve list of suitable candidates [3] .

3. The complainant requested a review of the results. The Selection Committee re-examined the complainant's file and concluded that there had been no mistake in the scoring process. It confirmed the complainant's score.

In August 2017, the complainant filed an administrative complaint [4] against eu-LISA's decision not to include him in the reserve list of suitable candidates. In its reply, eu-LISA maintained its decision.



4. Unsatisfied with eu-LISA's reply, the complainant turned to the Ombudsman on 30 November 2017.

## The inquiry

5. The Ombudsman opened an inquiry into the complainant's position that eu-LISA was wrong not to include him on the reserve list of suitable candidates for potential recruitment as IT specialists.

6. In the course of the inquiry, the Ombudsman's inquiry team duly considered the information provided in the complaint, in particular the complainant's administrative complaint and eu-LISA's reply.

## Eu-LISA's decision not to include the complainant on the reserve list

### Arguments made by the parties

7. The complainant is of the view that the selection procedure was unfair and non-transparent. He also argues that eu-LISA did not calculate his score properly because, "*according to [his] calculations*", he had answered most of the questions correctly.

8. Eu-LISA states that the Selection Committee was appointed by its Executive Director in accordance with the applicable rules [5]. A Selection Committee enjoys wide discretion in assessing candidates and in doing so it is bound by the published Vacancy Notice [6]. The suitability of candidates is determined through a comparative assessment of the candidates, carried out by the Selection Committee [7]. Eu-LISA confirmed that the Selection Committee carried out its tasks in accordance with the applicable rules.

### The Ombudsman's assessment

9. As eu-LISA pointed out in its reply to the complainant's administrative complaint, the Selection Committee has a wide margin of discretion when assessing the knowledge and abilities of candidates taking part in a selection procedure [8]. In the context of selection procedures, the Ombudsman will not question the judgment of a Selection Committee, unless there has been a manifest error of assessment [9].

10. In the present case, the complainant believes that he answered most of the questions correctly and that his score should therefore have been higher. However, the assessment of candidates was made on a comparative basis and the complainant's personal conviction that he



did well is not sufficient to indicate a manifest error of assessment by the Selection Committee.

11. The complainant has also not put forward any other argument indicating a manifest error.

## Conclusion

Based on the inquiry, the Ombudsman closes this case with the following conclusion [10] :

**There was no maladministration by eu-LISA in deciding not to include the complainant on the relevant reserve list.**

The complainant and eu-LISA will be informed of this decision .

Emily O'Reilly European Ombudsman

Strasbourg, 19/12/2017

[1] eu-LISA/16/TA/AD5/12.1

[http://www.eulisa.europa.eu/JobOpportunities/Job%20Opportunities/Information%20Security%20Officer/VN\\_EXT%20](http://www.eulisa.europa.eu/JobOpportunities/Job%20Opportunities/Information%20Security%20Officer/VN_EXT%20)  
[Link]

[2] Point 7 of the Vacancy Notice establishes that “ *The selection procedure includes the following steps: -The Selection Committee designated by the Executive Director of eu-LISA is set up for the selection procedure [...]* ”

[3] Point 7 of the Vacancy Notice establishes that “ *After the interviews and tests, the Selection Committee draws up a list of the most suitable candidates to be included on a reserve list for the post and proposes it to the Appointing Authority. Selection Committee may also propose to the Appointing Authority the best suitable candidate to be engaged for the post; “*

[4] Under Article 90(2) of the Staff Regulations, Regulation No 31 (EEC), 11 (EAEC) laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community, OJ 1962 L 45, p. 1385.

[5] eu-LISA's 2015 implementing rules

[6] Judgement of the Court of First Instance of 1 February 1999, *Mertens v Commission*, T-244/97 , ECLI:EU:T:1999:27, paragraph 44



[7] Judgement of the Court of First Instance of 6 November 1997, *Vinzek v Commission*, T-71/96, ECLI:EU:T:1997:170 paragraph 47

[8] Judgement of the Court of First Instance of 19 February 2004, *Konstantopoulou v Court of Justice*, T-19/03, ECLI:EU:T:2004:49, paragraph 43

[9] Decision of the European Ombudsman closing the inquiry into complaint 14/2010/ANA against the European Personnel Selection Office, paragraph 14 (decision available here: [https://www.ombudsman.europa.eu/cases/decision.faces/en/10427/html.bookmark#\\_ftnref5](https://www.ombudsman.europa.eu/cases/decision.faces/en/10427/html.bookmark#_ftnref5) [Link])

[10] Information on the review procedure can be found on the Ombudsman's [website](http://www.ombudsman.europa.eu/en/resources/otherdocument.faces/en/70669/html.bookmark) [Link]: <http://www.ombudsman.europa.eu/en/resources/otherdocument.faces/en/70669/html.bookmark> [Link]**[TO IU-ASSISTANT: PLEASE DELETE THIS FOOTNOTE BEFORE PUBLISHING IT ON THE WEBSITE ]** If maladministration found, discuss with the Case Handler whether the footnote should be deleted (see link to the [RR decision](#) [Link])