

Decision in case 1641/2015/ZA on the European Personnel Selection Office's refusal to allow the complainant to apply under two concurrent competitions for recruiting translators and failure to explain the reasons for applying this practice

Decision

Case 1641/2015/TM - **Opened on** 07/12/2015 - **Recommendation on** 19/12/2017 - **Decision on** 17/07/2018 - **Institution concerned** European Personnel Selection Office (Recommendation agreed by the institution) |

The case concerned the European Personnel Selection Office's ('EPSO') practice of not permitting candidates to apply for more than one concurrent recruitment competition for EU civil servants even where they fulfilled the criteria. EPSO refused to allow the complainant to apply under two concurrent competitions for recruiting translators for the EU institutions, and failed to convincingly explain the reasons for applying this practice.

The Ombudsman found that this practice could have the consequence of hindering the recruitment of the most qualified persons and that, accordingly, EPSO should be able to provide convincing reasoning as to why it has this practice. The Ombudsman found that EPSO's failure to provide such reasoning to the complainant constituted maladministration. She found also that any continuation of the practice, in the absence of solid reasoning, would necessarily also constitute maladministration. *The Ombudsman therefore recommended to EPSO that it immediately review its policy in relation to this practice.*

In response, EPSO set up an internal reflection group to conduct a detailed impact assessment of any policy change in this area. The assessment will be presented to EPSO's Management Board by December 2018. The Board must take the final decision. As EPSO is acting on her recommendation, the Ombudsman has decided to close the case.

Background to the complaint

1. In July 2015 the European Personnel Selection Office ('EPSO') published a notice of open competitions for recruiting translators for the EU institutions [1] . The competitions were for the following languages: Finnish (EPSO/AD/315/15); Hungarian (EPSO/AD/316/15); Latvian (EPSO/AD/317/15); Polish (EPSO/AD/318/15); Portuguese (EPSO/AD/319/15); and Slovak



(EPSO/AD/320/15). In each case the competition was for translators at grade AD5.

2. The notice stated that candidates were allowed to participate in one competition only.
3. The complainant wanted to participate in two competitions (Polish language EPSO/AD/318/15 and Portuguese language EPSO/AD/319/15), as she believed she fulfilled the required criteria for both.
4. She asked EPSO to explain why one could participate in one competition only. In its reply EPSO stated " *No specific reason, it is clearly mentioned in the notice of the open competition, page 1* ". Subsequently, the complainant filed an on-line complaint asking EPSO to allow her to apply for two competitions. EPSO replied that the notice is a legally binding document and, therefore, the complainant had to choose one competition only.

The Ombudsman's recommendation

5. The Ombudsman noted that the "only-one-competition"-rule could hinder the recruitment of the most qualified persons which was against the Staff Regulations. In that case the best translator could actually be the one who qualifies under two competitions, for instance because the person is bilingual. Accordingly, , EPSO must be able to provide particularly convincing reasoning for maintaining the rule. EPSO has not been able to provide such reasoning.

6. The Ombudsman therefore made the following recommendation [2] :

EPSO should, within six months, review its policy of not permitting candidates to apply for more than one concurrent competition at a time. This review should have regard in particular to the tests set out in the Di Prospero judgment in accordance with which the current restrictive practice may be maintained only on the basis of requirements connected with the post to be filled and more generally by the interest of the service.

7. In reply to the Ombudsman's recommendation, EPSO informed her that it had decided to set up an internal reflection group with the task of conducting a detailed impact assessment of any policy change, and developing a proposal to be presented to EPSO's Management Board [3] no later than December 2018.

8. The detailed analysis would cover the potential consequences of any change to the current policy on the various operational and procedural aspects of organising competition (such as IT, test development, workflow planning, managing candidate communications and expectations, etc.), and to an estimation of the resources and timeframes required to implement them.

9. EPSO said that it was unable to conclude its review within the six month period specified in the Ombudsman's recommendation. It said it will inform the Ombudsman of the outcome of the review, " *as well as of the resulting policy proposal* ".



The Ombudsman's assessment after the recommendation

10. The Ombudsman notes that, while EPSO is acting in accordance with her recommendation, it has not been able to meet the six month timeframe specified in the recommendation. However, the Ombudsman concludes that EPSO has effectively accepted her recommendation and closes this inquiry on that basis. Conclusion

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

EPSO has effectively accepted the Ombudsman's recommendation.

The complainant and the European Personnel Selection Office will be informed of this decision .

Emily O'Reilly

European Ombudsman

Strasbourg, 17/07/2018

[1] <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:C2015/249A/01&from=EN>
[Link]

[2] The full text of the recommendation and the arguments that led to it are available at:
<https://www.ombudsman.europa.eu/cases/recommendation.faces/en/87594/html.bookmark>
[Link]

[3] The Management Board is composed by one member appointed by the European Parliament, the Council, the Commission, the Court of Justice, the Court of Auditors, the Economic and Social Committee, the Committee of the Regions and the Ombudsman and three staff representatives with observer status appointed by common assent by the staff committees of the above institutions.

It takes general management decisions, which are implemented by EPSO in the organisation of competitions and selection procedures for the recruitment of EU civil servants.